Rt. Hon. Speaker
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

.....

REPORT ON:
THE CONSIDERATION OF
THE FINANCE BILL (NATIONAL ASSEMBLY BILLS NO. 26 OF 2026)

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 16 JUN 2026
DAY. Tuesday
TABLED BY: Hon. FCPA Kuria Kimani (Chairperson, Finance & National Planning Committee)
CLERK-AT THE-TABLE: Lornale

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2026

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LIST OF ABBREVIATIONS

ABAK	-	Alcoholic Beverages Association of Kenya
AMO	-	Approved Maintenance Organization
BEPS	-	Base Erosion and Profit Sharing
BETA	-	Bottom-Up Economic Transformation Agenda
CapEx	-	Capital Expenditure
CbC	-	Country-by-Country (reporting)
CBK	-	Central Bank of Kenya
CET	-	Common External Tariffs
CGT	-	Capital Gains Tax
CHPs	-	Community Health Promoters
CHW	-	Community Health Workers
CMA	-	Capital Markets Authority
COMESA	-	Common Market for Eastern and Southern Africa
CS	-	Cabinet Secretary
DFSAK	-	Digital Financial Services Association of Kenya
DHA	-	Digital Health Agency
DST	-	Digital Service Tax
EAC	-	East African Community
EACCMA	-	East African Community Customs Management Act
EDA	-	Excise Duty Act
EIPL	-	Export and Investment Promotion Levy
EMAK	-	Electric Mobility Association of Kenya
EMR	-	Electronic Medical Records
ENA	-	Extra Neutral Alcohol
EPZ	-	Export Processing Zone
e-TIMS	-	electronic Tax Invoice Management Systems
FDI	-	Foreign Direct Investment
HS Code	-	Harmonized System Code
IATA	-	International Air Transport Association
ICPAK	-	Institute of Certified Public Accountants of Kenya
IDF	-	Import Declaration Fee
ITA	-	Income Tax Act
ITAX	-	Integrated Tax Management System
KAAO	-	Kenya Association of Air Operators
KAM	-	Kenya Association of Manufacturers
KICC	-	Kenyatta International Convention Centre
KPDA	-	Kenya Property Developers Association
KRA	-	Kenya Revenue Authority
KYCAC	-	Kenya Youth Climate Advisory Council
LLP	-	Limited Liability Partnership

MFIs	-	Microfinance Institutions
MRO	-	Maintenance, Repair and Overhaul
MTRS	-	Medium-Term Revenue Strategy
NIFCA	-	Nairobi International Financial Centre Authority
NSE	-	Nairobi Securities Exchange
OECD	-	Organization for Economic Co-operation and Development
OEM	-	Original Equipment Manufacturer
PAYE	-	Pay As You Earn
PFM	-	Public Finance Management
PIN	-	Personal Identification Number
RDL	-	Railway Development Levy
SCJ	-	SC Johnson
SEPT	-	Significant Economic Presence Tax
SEZ	-	Special Economic Zone
SHIF	-	Social Health Insurance Fund
SRC	-	Salaries and Remuneration Commission
TAT	-	Tax Appeals Tribunal
TPA	-	Tax Procedures Act
UHC	-	Universal Health Coverage
VACC	-	Virtual Assets Chamber of Commerce
VASPs	-	Virtual Assets Service Providers
VAT	-	Value Added Tax
WHT	-	Withholding Tax

ANNEXURES

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CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Finance and National Planning on the consideration of the Finance Bill (National Assembly Bills No. 26 of 2026), sponsored by **Hon. FCPA Kuria Kimani, CBS MP.**

The Bill primarily seeks to simplify tax laws, address ambiguities, strengthen enforcement, and align Kenya's tax framework with international standards. Key measures include improved taxation of trusts, virtual assets, non-residents, and digital transactions, alongside rationalisation of tax incentives and enhanced compliance through electronic systems.

Specifically, the Bill seeks to amend the **Income Tax Act, Cap. 470**; the **Value Added Tax Act, Cap. 476**; the **Excise Duty Act, Cap. 472**; the **Tax Procedures Act, Cap. 469B;** the **Miscellaneous Fees and Levies Act, Cap. 469C**, the **Stamp Duty Act, Cap. 480**, and the **Road Maintenance Levy Fund Act, Cap. 427.**

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on Monday, 11th May 2026, inviting the public to submit memoranda by way of both oral and written submissions on the Bill.

Additionally, the Committee invited stakeholders for engagement sessions, which were held on diverse dates between Thursday, 21st to Friday, 29th May 2026 at Glee Hotel, Kiambu County.

Further, the Committee on diverse dates between Tuesday, 2nd and Monday, 8th June 2026, conducted public hearing forums in thirteen (13) Counties, namely; Wajir, Kiambu, Vihiga, Nyamira, Bomet, Makueni, Siaya, Taita Taveta, Nairobi, Turkana, Kilifi, Tana River and Mombasa Counties, where the Committee received views from the members of the public.

Additionally, the Committee held consultations with relevant Government agencies from Tuesday, 9th to Friday, 12th June 2026 to deliberate on various provisions in the Bill.

Throughout this process, the Committee was guided by the need to balance revenue mobilization through administrative reforms with the imperative to support economic recovery, safeguard taxpayers' rights and promote sustainable growth.

The Committee made key observations and recommendations. These include the proposal to amend the definition of "immovable property" under section 2 of the Income Tax Act by replacing the word "and" with "or". The Committee observed that the amendment seeks to clarify that interests relating to land and interests arising from mining and petroleum rights are independent categories capable of separately constituting immovable property. The proposed amendment seeks to improve legal certainty by ensuring that gains arising from Kenyan land-based assets or extractive resources remain taxable in Kenya.

The Committee also observed that the Bill's proposal to expand the definition of management or professional fees is aimed at addressing an existing gap in the taxation of income arising from card-based transactions. Currently, such fees are not classified as management or professional fees and therefore are not subject to withholding tax under section 35 of the Income Tax Act.

With regard to the definition of winnings and withdrawals in the gaming and betting sector, the Committee observed that frequent changes to the applicable provisions, have created uncertainty for operators and undermined predictability in the tax framework. Consequently, the Committee recommended the harmonization of all taxation on betting.

The Committee also adopted the Bill's proposal seeking to clarify the circumstances under which gratuity payments qualify for exemption by introducing a three-year continuous service requirement, limiting the exempt amount to thirty-one percent of basic salary, and excluding persons who already benefit from pension deductions. The Committee observed that gratuity payments earned after 1st July, 2025 are currently exempt from income tax irrespective of the length of service, creating a broad exemption that may be susceptible to abuse through tax planning arrangements, particularly where remuneration is structured as gratuity under short-term contracts.

The Bill further proposes the introduction of section 6B requiring non-resident landlords to register and account for tax under a simplified compliance framework, except where the property is managed by an agent, in which case the agent shall be responsible for withholding the tax. rental income earned by non-resident persons from property situated in Kenya. In this regard, the Committee observed that the current requirement for tenants to withhold tax presents practical challenges, particularly where tenants are unaware of the landlord's tax residency status. The Committee supported the proposal as it strengthens compliance, enhances tax administration, and provides clarity on responsibility for withholding obligations while avoiding double taxation where tax has already been withheld by an appointed agent.

With regard to the introduction of a 1.5 percent withholding tax on the sale of scrap metal, the Committee observed that the repeal of the previous withholding tax regime created compliance gaps in a largely informal, cash-based sector characterised by limited record-keeping. The Committee observed that the proposed withholding tax is intended to formalise the sector, improve transaction traceability, enhance compliance, and reduce revenue leakage.

On taxation of trust income and the elimination of double taxation on beneficiary distributions, the Committee observed that income earned by a trust is currently taxed at the trustee level, but subsequent distribution to beneficiaries may result in the same

income being subjected to tax again. The Bill seeks to provide that once tax has been paid by the trustee, executor, or administrator, beneficiaries shall not be taxed again upon receiving distributions. The Committee supported the proposal as it introduces a one stop taxation point, reduces administrative complexity, promotes compliance, and limits opportunities for tax avoidance.

In relation to the proposal to introduce a minimum deemed dividend distribution threshold, the Committee observed that the Bill proposed a sixty percent threshold on undistributed income to address tax deferral. However, the Committee recommended an amendment of the proposed threshold, noting that such a requirement would place undue pressure on businesses and limit their ability to retain earnings for investment and growth. Therefore, the Committee recommended adoption of a moderated threshold to balance revenue collection objectives with business sustainability.

Regarding changes to the due date for filing tax returns, the Committee observed that the Bill proposes different timelines depending on the nature of the return, with nil returns required to be filed within the first month after the end of the year of income and other individual returns within the fourth month. While the Committee acknowledged that the proposal seeks to enhance efficiency in tax administration, it recommended amendments to provide individuals with four months and corporates with six months to file their returns. The Committee observed that nil returns require minimal information and processing time, whereas corporate returns involve more complex financial records and compliance requirements, making the proposed amended timelines more practical and consistent with existing filing practices.

On taxation of death benefits, the Committee observed that although certain retirement benefits are exempt from tax, the law does not expressly provide for the treatment of death benefits payable to dependants. The Bill seeks to clarify that such benefits paid to beneficiaries following the death of a pensioner be exempt from tax.

The Committee further observed that the Bill proposes the removal of the preferential five percent withholding tax rate applicable to dividends paid to East African investors. The Committee observed that the preferential rate creates unequal treatment based on residency and represents a tax incentive that is not clearly linked to economic performance. The Committee supports the proposal as it aligns with the National Tax Policy objective of rationalising tax expenditures and promoting a fair, efficient, and neutral tax system.

On excise duty applicable to mobile phones, the Committee observed that the current framework requires payment of excise duty at importation or upon removal from the factory for locally manufactured phones. The Bill proposes shifting the tax point to the time of activation on a mobile network. Following engagement with stakeholders, the

Committee observed that this proposal would create significant compliance challenges, delay revenue collection, and create uncertainty for consumers. The Committee therefore recommended that the proposal be deleted, noting that further policy review and stakeholder consultation would be required before implementation.

On the proposed reclassification of certain supplies from zero-rated to exempt status, the Committee recommended retaining their zero-rated status. The affected items include locally assembled and manufactured mobile phones, electric motorcycles, electric bicycles, solar and lithium-ion batteries, electric buses, transportation of sugar cane from farms to milling factories, and inputs or raw materials used in the manufacture of animal feeds. The Committee observed that these items were recently granted zero-rated status under the Finance Act, 2023 to support local manufacturing and reduce the cost of essential goods. Reversing this position would increase production costs, discourage investment, and undermine predictability in the tax system.

The Committee further considered the correction of the reference to virtual asset service providers. It observed that the Finance Act, 2025 introduced excise duty on fees charged on virtual asset transactions but incorrectly referred to "virtual asset providers" instead of "virtual asset service providers." The proposed amendment aligns the Excise Duty Act with the terminology used under the Virtual Asset Service Providers Act, 2025, thereby improving clarity and supporting effective implementation.

In relation to the expansion of the Commissioner's powers to issue data-driven tax assessments, the Committee observed that the Bill seeks to empower the Commissioner to issue assessments based on information obtained from third-party sources, electronic tax systems, employer filings, and audit records. While the Committee recognised that this strengthens tax administration by enabling system-generated assessments, it observed the need for procedural safeguards to protect taxpayers' rights. The Committee therefore recommended the introduction of section 29A to the Tax Procedures Act requiring the Commissioner to disclose the information sources and computations relied upon in issuing an assessment. The Committee further recommended that such disclosure be a condition for validity of the assessment and that, where disputed, the Commissioner bears the responsibility of demonstrating the accuracy and reliability of the information used.

With regard to the introduction of tax amnesty, the Committee observed that the Bill proposes the reintroduction of a one-year tax amnesty effective 1st July, 2026, covering liabilities accrued up to 31st December, 2025, and providing for waiver of penalties, interest, and fines upon payment of the principal tax by 30th June, 2027. The Committee supported the proposal, noting that significant outstanding tax arrears remain unresolved due to compliance gaps, disputes, and administrative constraints. A targeted and time-bound amnesty provides an opportunity to unlock revenue, encourage voluntary

compliance, broaden the tax base, and allow the revenue authority to focus resources on future compliance.

The Committee further observed that the tax amnesty programme introduced in 2023 was successful in facilitating the recovery of outstanding tax liabilities. The programme which attracted 1.06 million applications, resulted in the declaration of Kshs. 54.5 billion in principal tax liabilities and the successful collection of Kshs. 43.9 billion between September 2023 and June 2024. The amnesty provided for the waiver of penalties and interest on tax debts accrued up to 31st December, 2022, thereby encouraging taxpayers to voluntarily disclose and settle historical liabilities. The Committee noted that the proposed extension of the program is premised on this success, thereby adopting the proposal.

However, the Committee observed that repeated use of tax amnesty programmes may create moral hazard by weakening the culture of voluntary compliance, as some taxpayers may delay payment of taxes in anticipation of future waivers on penalties and interest. This may create an unfair environment where compliant taxpayers bear the burden while non-compliant taxpayers benefit from future relief measures. The Committee therefore observed that the long-term success of the initiative will depend on continued taxpayer engagement, strengthened compliance measures, and effective enforcement following the conclusion of the amnesty period to ensure that amnesty remains a targeted intervention rather than an expected recurring benefit.

With regard to the Bill's proposal for the removal of restrictions on the issuance of agency notices and strengthening of the Commissioner's enforcement powers, the Committee observed that allowing the Commissioner to issue agency notices during the pendency of objections, appeals, alternative dispute resolution (ADR) processes, or court proceedings would undermine taxpayers' rights to challenge tax decisions and weaken existing dispute resolution safeguards.

The Committee noted that such a measure could result in significant cash flow constraints and operational disruptions for taxpayers, particularly where amounts recovered are later found not to be payable. The Committee further observed that the proposal raises concerns relating to the right to fair administrative action, access to justice, and delays in the refund of amounts collected where taxpayers are successful in their appeals. Given that the existing provisions under the Tax Procedures Act provide adequate mechanisms for enforcement while protecting taxpayers' rights, the Committee recommended the deletion of the proposal from the Bill.

The Committee also sought to address the proposal to retain the inclusion of weekends and public holidays in computing timelines for filing tax objections and appeals. It observed that the amendment would effectively shorten the period available to taxpayers to

exercise their rights while increasing the risk of procedural default, particularly where deadlines fall immediately after non-working days. The Committee further noted that the proposal may undermine procedural fairness and the right to a fair hearing under Article 50 of the Constitution by limiting taxpayers' ability to prepare and submit objections or appeals adequately. Consequently, the Committee recommended the deletion of the proposal to ensure that taxpayers have a reasonable and practical period within which to exercise their statutory rights.

The Committee also underscored the need to strengthen the enforcement framework for the recovery of government revenue collected by the Kenya Revenue Authority (KRA) on behalf of other government entities. The Committee noted that although the Commissioner is empowered under various written laws to collect certain fees, levies, and charges, there is currently no uniform mechanism for enforcement and recovery of such amounts where they remain unpaid. This creates administrative challenges and may affect effective revenue mobilisation.

The Committee therefore recommended the amendment of the Tax Procedures Act to provide an enforcement mechanism for such collections, noting that the amendment would enhance efficiency in revenue collection, reduce administrative delays, and strengthen accountability in the management of public revenues.

Finally, the Committee observed that over time, the Kenya Revenue Authority has faced challenges in meeting revenue targets due to constraints in financing revenue administration activities, including enforcement, compliance monitoring, and system improvements. To enhance the capacity of the Authority to undertake revenue mobilisation initiatives, the Committee will be recommending measures to provide additional resources for effective tax administration.

It is now my pleasure to report that the Committee has considered the Finance Bill (National Assembly Bills No. 26 of 2026) and wishes to report to this August House with the recommendation that, the House approves the Bill with the proposed amendments.

HON. FCPA KURIA KIMANI, CBS, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

CHAPTER ONE

PREFACE

1.1ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is established under Standing **Order 216 (5)** and whose mandate is as follows:

i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*

ii. *To study the program and policy objectives of Ministries and departments and the effectiveness of their implementation;*

iii. To study and review all the legislation referred to it;

iv. *To study, assess, and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*

v. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*

vi. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on Appointments);*

vii. *To examine treaties, agreements and conventions;*

viii. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

ix. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution and*

x. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.

3. In executing its mandate, the Committee oversees the following government Ministries and Departments:

i. The National Treasury;
ii. State Department for Economic Planning;

iii. State Department for Public Investments and Asset Management
iv. Commission on Revenue Allocation; and
v. Office of the Controller of Budget.

1.3COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning comprises the following Members:

Chairperson
Hon. FCPA. Kuria Kimani, CBS, MP
Molo Constituency
UDA Party

Vice-Chairperson
Hon. FCPA (Amb). Benjamin Langat, CBS, MP
Ainamoi Constituency
UDA Party

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency
ODM Party

Hon. Andrew Okuome, MP
Karachuonyo Constituency
ODM Party

Hon. David Mwalika Mboni, MP
Kitui Rural Constituency
Wiper Party

Hon. FCPA. Joseph Oyula, MP
Butula Constituency
ODM Party

Hon. Dr. John Ariko Namoit, MP
Turkana South Constituency
ODM Party

Hon. Umul Ker Kassim, MP
Mandera County
UDA Party

Hon. CPA. Julius Rutto, MP
Kesses Constituency
UDA Party

Hon. (Dr.) Shadrack Ithinji, MP
South Imenti Constituency
Jubilee Party

Hon. Paul K. Biego, MP
Chesumei Constituency
UDA Party

Hon. Chiforomodo, Munga, MP
Lunga Lunga Constituency
UDM Party

Hon. Gathoni Wamuchomba,MP
Githunguri Constituency
UDA Party

Hon. Mohamed S. Machele, MP
Mvita Constituency
ODM Party

Hon. George Sunkuyia, MP
Kajiado West Constituency
UDA Party

COMMITTEE SECRETARIAT

5. The following staff facilitate the Committee:

Ms. Tracy Chebet
Principal Clerk Assistant II/Head of Secretariat

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Salem Lorot
Legal Counsel I

Ms. Winfred Kambua
Clerk Assistant III

Mr. Benson Kamande,
Clerk Assistant III

Mr. James M. Macharia
Media Relations Officer

Mr. George Ndenjeshe
Fiscal Analyst II

Ms. Joyce Wachera
Hansard Officer II

Ms. Nelly W.N. Ondieki
Research Officer III

Mr. Benson Muthuri
Serjeant-At-Arms

Mr. Allan Ngugi
Administrative Officer III

Mr. Eugene Luteshi
Audio Officer III

Mr. Steve Jeremy Kamau
Committee Intern

6. Further, the Committee Secretariat was supported by the following technical officers—

2 Mr. Robert Nyaga **- Senior Deputy Director, Parliamentary Budget Office**
3 Mr. Chelang'a Maiyo - **Chief Research Officer**
4 Mr. Mohammed Noor **- Clerk Assistant III**
5 Ms. Peninnah Simiren - **Legal Counsel II**
6 Ms. Patricia Gichane - **Legal Counsel II**
7 Ms. Vivienne Ogega **- Research Officer III**
8 Mr. Simon Ouko **- Serjeant at Arms**
9 Mr. Timothy Chiko **- Research Officer III**
10 CPA. Cyrille Mutali **- Fiscal Analyst II**
11 FA. Joy Kyalo **- Fiscal Analyst II**
12 Mr. Ian Kinuthia **- Communications Officer**
13 Ms. Anne Kangethe **- Administrative Officer III**

CHAPTER TWO

OVERVIEW OF THE FINANCE BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2026)

2.1 BACKGROUND

7. The Finance Bill is an annual legislative tool that seeks to rationalize revenue collection by the National Government. Based on the Budget Policy Statement and Budget Estimates that have been approved, the Bill focuses on enhancing tax revenue through administrative change and enhanced taxpayer compliance. The Finance Bill, 2026, is projected to generate approximately KSh. 98.9 billion in additional revenue from the proposed tax measures.

8. In accordance with Section 39A of the Public Finance Management Act, Cap 412A, the Cabinet Secretary of the National Treasury has the obligation to lay the Finance Bill in the National Assembly. The 2026 Finance Bill has been drawn up against the background of a constrained fiscal environment, with the FY2026/27 Budget having total revenue (inclusive of grants) projected at KSh. 3,629.7 billion (17.4% of GDP), while total expenditure is projected at KSh. 4,785.2 billion (23% of GDP).

9. To bridge the fiscal gap, the Bill proposes a strategy that aims at improving the effectiveness of revenue collection. It involves tax administration reform and streamlining tax obligations to make them more understandable, thereby ensuring higher compliance and eliminating unnecessary legal provisions.

10. The Bill amends fifty-seven (57) key pieces of legislation: the Income Tax Act, Value Added Tax Act, Excise Duty Act, Tax Procedures Act, Miscellaneous Fees and Levies Act, Road Maintenance Levy Fund Act and Stamp Duty Act. Its main objective is to ease tax administration by simplifying compliance processes and cleaning up outdated provisions, including removing redundant terms and cross-references to repealed sections of law.

2.2 INCOME TAX ACT, CAP. 470

The Bill seeks to amend the Income Tax Act, Cap. 470 to, among others;

11. Clarify the definition of "immovable property" by replacing "and" with "or" so the definition applies to either land-related interests or mining and petroleum rights independently, removing ambiguity in interpretation.

12. Expand the definition of "management or professional fee" to include interchange fees and merchant service fees arising from card-based payment transactions, requiring businesses to deduct withholding tax on such fees (5% for residents and 20% for non-residents).

13. Replace the definition of "royalty" with a broader formulation that captures payments for the use of proprietary digital platforms and payment systems (including card schemes, processing, switching, clearing, and settlement systems) and payments for software distribution.

14. Amend the definition of "withdrawals" to include any amount paid or disbursed to a player's account by a person licensed under the Gambling Control Act, 2025, shifting the taxable event to any credit or payout into a player's account regardless of physical withdrawal.

15. Reintroduce the definition of "winnings" to mean a payout made by a person licensed under the Gambling Control Act from a lottery or prize competition, excluding the amount staked or wagered, ensuring tax applies only to net winnings.

16. Narrow the tax exemption on gratuity payments by introducing a requirement that an employee must have served under a continuous contract of employment for at least three years before such payments qualify for exemption, affecting employees in NGOs, construction, and project-based sectors on short-term contracts.

17. Expand the tax exemption on employer contributions to gratuity schemes by allowing any employer contribution to be exempt from tax (not limited to registered pension schemes), subject to a 31 percent cap of the employee's basic salary and a minimum three-year continuous service requirement.

18. Introduce a final non-resident rental income tax regime requiring non-resident landlords to register with the Kenya Revenue Authority, file monthly returns, and pay tax by the 20th of the following month, with no deductions or expenses allowed.

19. Delete the obsolete subsection 8(5A) requiring pension funds to segregate pre-1991 and post-1990 contributions, as this transitional rule has become outdated due to subsequent pension taxation reforms.

20. Introduce a 5-day tax remittance rule for non-resident shipowners, charterers, and air transport operators earning income from carrying passengers, cargo, or mail from Kenya, tightening the payment timeline.

21. Reintroduce withholding tax at 1.5 percent on the sale of scrap metal for both residents and non-residents, and reinstate withholding tax on winnings at 20 percent for both residents and non-residents.

22. Simplify trust taxation by clarifying that once tax has been paid at the trustee level, beneficiaries will not be subject to further tax on distributions received from that income.

23. Exempt employees from paying instalment tax where they reasonably expect their only income for the year will be employment income already subject to PAYE, removing an outdated reference to the repealed minimum tax provision.

24. Extend allowable interest deductions for residential housing loans to include interest paid to the Central Bank of Kenya (up to KSh. 360,000), which was previously excluded as CBK is not licensed under the Banking Act.

25. Widen the thin capitalisation exemption so that non-deposit-taking institutions qualify if they are engaged in lending only, leasing only, or both, rather than requiring involvement in both activities simultaneously.

26. Tighten the deemed dividend rules by requiring at least 60 percent of undistributed profits to be treated as dividends if not distributed within twelve months after year-end, replacing the Commissioner's previously uncapped discretion.

27. Reduce the filing deadline for income tax returns from six months to four months after the end of the year of income, and require nil returns to be filed within one month after year-end.

28. Introduce a capital gains tax exemption on transfers of property to Real Estate Investment Trusts (REITs) registered by the Commissioner, to promote investment in real estate structures.

29. Clarify that the 10 percent industrial building deduction is claimed in equal annual instalments, ensuring consistency in its application.

30. Remove the preferential 5 percent withholding tax rate on dividends paid to citizens of East African Community Partner States, aligning their treatment with the standard 15 percent rate for non-residents.

31. Extend Capital Gains Tax on share sales by non-residents to cover gains derived from shares that derive their value from Kenya generally, not just from immovable property, and to cover changes in group ownership of Kenyan resident companies.

32. Introduce a 15 percent tax on profits repatriated by mining companies and reduce the corporate tax rate for non-resident petroleum contractors from 37.5 percent to 30 percent, while introducing a 15 percent tax on income repatriated by such contractors.

2.3 VALUE ADDED TAX ACT, CAP. 476

The Bill seeks to amend the Value Added Tax Act, Cap. 476 to, among others;

33. Remove redundant definitions of "assessment," "information technology," and "tax computerized system" from the VAT Act, as these are either already defined in the Tax Procedures Act or have been replaced by more modern terminology.

34. Limit the exclusion of financing charges from VAT on hire purchase arrangements to only suppliers licensed under the Hire Purchase Act; unlicensed suppliers will have financing charges included in the taxable value.

35. Introduce a new Section 17A to address the input tax adjustment required when goods previously taxable become exempt while still in stock, requiring reversal of the related input tax in the period the exemption takes effect.

36. Increase the waiting period for VAT refunds on bad debts from two years back to three years, reversing the change made by the Finance Act, 2025.

37. Broaden the obligation to issue a tax invoice at the point of supply from registered persons only to all persons (whether or not VAT-registered), aligning with changes under the Tax Procedures Act.

38. Repeal Section 66 of the VAT Act on anti-avoidance, consolidating such powers under the new unified framework in the Tax Procedures Act.

39. Move the following items from exempt to taxable at the standard rate of 16%: all goods and parts of Chapter 88 (aircraft-related); direction-finding compasses, instruments, and appliances; taxable goods for construction of tourism facilities and recreational parks of 50 acres or more; goods for affordable housing construction; and denatured ethanol (tariff 2207.20.00).

40. Move the following items from zero-rated to exempt status: inputs for animal feed manufacture; inputs for pharmaceutical manufacture; transportation of sugarcane from farms to milling factories; mobile phones for cellular and wireless networks; motorcycles (tariff 8711.60.00); electric bicycles; solar and lithium-ion batteries; electric buses (tariff 87.02); and bioethanol vapour stoves.

41. Move worn clothing and other worn articles (tariff heading 6309) and goods for public-private partnership infrastructure projects from the standard 16% rate to exempt status.

42. Bring digital and platform-based financial services (including payment processing, settlement, merchant acquiring, gateway, and aggregation services provided for a fee) out of the VAT exemption and into the taxable bracket.

43. Clarify the VAT exemption for tour operators by limiting it to licensed operators and defining in-house supplies as taxable services provided directly using the operator's own resources.

2.4 EXCISE DUTY ACT, CAP. 472

The Bill seeks to amend the Excise Duty Act, Cap. 472 to, among others;

44. Introduce a definition of "antique, vintage, or classic vehicles" as vehicles at least 30 years old with a value exceeding KSh. 10 million, providing clarity for classification and consistent excise duty treatment.

45. Shift excise duty liability on mobile phones from the point of importation or factory removal to the point of activation, linking the tax point to when the device becomes operational within the country.

46. Increase excise duty on mobile phones from 10 percent of customs value to 25 percent of excisable value, broadening the tax base.

47. Remove excise duty on fruit juices (including grape must) and vegetable juices that are unfermented and do not contain added spirit (KSh. 14.14 per litre removed), while reintroducing it as a new excise item with revised rates.

48. Remove excise duty on bottled or similarly packaged waters and other non-alcoholic beverages (excluding fruit and vegetable juices).

49. Remove the preferential excise duty rate of KSh. 10 per centilitre of pure alcohol for licensed small independent brewers, subjecting all producers to the standard rate of KSh. 22.50 per centilitre.

50. Expand excise duty on extra neutral alcohol (spirits exceeding 90% strength) to apply regardless of the purchaser's licensing status, while reducing the rate from KSh. 500 per litre to KSh. 80 per litre.

51. Increase excise duty on cigars, cheroots, and cigarillos from KSh. 16,260.29 per kilogram to KSh. 18,000 per kilogram, and on other manufactured tobacco from KSh. 11,382.48 to KSh. 12,550 per kilogram.

52. Introduce new excise duties on: imported articles of plastic (tariff 3923.30.00 and 3923.90.90) at 10%; coal at 5% of excisable value; antique, vintage and classic vehicles at 50% of excisable value; and fruit and vegetable juices at KSh. 14.14 per litre (unsweet) and KSh. 20 per litre (sweetened).

53. Remove the exemption that excluded horse racing from excise duty on betting, bringing it within the standard betting excise duty framework at 12.5% of the amount wagered or staked.

54. Clarify that excise duty on virtual asset transactions applies to fees charged by licensed virtual asset service providers, adopting definitions from the Virtual Asset Service Providers Act, 2025.

2.5 TAX PROCEDURES ACT, CAP. 469B

The Bill seeks to amend the Tax Procedures Act, Cap. 469B to, among others;

55. Adopt the definitions of "Virtual Asset" and "Virtual Asset Service Provider" from the Virtual Asset Service Providers Act, bringing virtual assets and related service providers within Kenya's tax framework.

56. Require Virtual Asset Service Providers (VASPs) to file annual information returns with the Commissioner in respect of all reportable virtual asset users, with penalties of KSh. 100,000 per false statement or omission and KSh. 1,000,000 for failure to file.

57. Empower the Government to enter into agreements with other countries for the automatic exchange of information relating to virtual asset transactions.

58. Amend section 10 to require persons who were previously deregistered and later re-qualify for registration to apply for reinstatement and be re-issued with the same PIN, preserving historical tax records.

59. Exempt non-resident persons from PIN requirements when opening accounts with investment banks.

60. Introduce a unified anti-avoidance framework under a new Section 18A empowering the Commissioner to assess tax as if a tax avoidance scheme had not been entered into, with a 5-year assessment window and definitions of "scheme" and "tax benefit."

61. Expand the Commissioner's powers to issue data-driven assessments using information from withholding tax returns, PAYE records, eTIMS, third-party data, electronic tax systems, inspections, and audits, meaning non-filing no longer delays taxation.

62. Reintroduce a tax amnesty covering all tax obligations for periods up to 31st December 2025, with automatic waiver of penalties and interest for those who have fully settled principal taxes and a structured payment plan option for those with outstanding balances (to be cleared by 31st December 2026).

63. Delete section 39A (2) of the Tax Procedures Act, restoring the exclusive obligation to deduct and remit withholding tax to the withholder in any transaction.

64. Remove the existing bar on issuing agency notices where a taxpayer has appealed against an assessment pending before the Tax Appeals Tribunal or a court, allowing the Commissioner to proceed with enforcement even during ongoing appeals.

65. Repeal Section 44A and remove the mandatory Certificate of Origin requirement for import clearance introduced by the Finance Act, 2025.

66. Limit tax credit offsets to overpaid tax against outstanding tax debts and future tax liabilities only, removing the flexibility to offset credits against VAT on importation.

67. Introduce statutory authority for the Commissioner to generate pre-populated tax returns using electronic tax system data, formalizing an existing administrative practice.

68. Remove the exclusion of Saturdays, Sundays, and public holidays from the computation of timelines for lodging objections and appeals, effectively reducing the effective time available to taxpayers.

69. Introduce a more structured penalty framework for non-compliance with eTIMS requirements, with penalties equal to the highest of two times the tax due, KSh. 10,000 for individuals, or KSh. 100,000 for companies.

70. Empower the Commissioner to waive penalties or interest not exceeding KSh. 2 million where the liability arises from an error generated by an electronic tax system.

71. Empower the Cabinet Secretary to prescribe regulations governing the submission of returns based on pre-populated tax returns generated by the Commissioner.

2.6 MISCELLANEOUS FEES AND LEVIES ACT, CAP. 469C

The Bill seeks to amend the Miscellaneous Fees and Levies Act to, among others;

72. Reduce the portion of import declaration fees allocated to a fund under the Public Finance Management framework from 20% to 10%, with the entire reduced allocation directed solely towards Kenya's contributions to the African Union and other international organizations.

73. Extend the application of the East African Community Customs Management Act, 2004, from specific charges to all fees and levies under Part III of the Act, aligning assessment, collection, and enforcement with the EAC customs framework.

74. Exempt all parts of Chapter 88 (aircraft-related), goods classified under tariff headings 8802.30.00 and 8802.40.00, and imported telephones for cellular and wireless networks from the import declaration fee and railway development levy.

2.7 STAMP DUTY ACT, CAP.480

The Bill seeks to amend the Stamp Duty Act to, among others;

75. Introduce a new paragraph (c) to Section 96A (1) to extend stamp duty exemption to instruments conveying or transferring a beneficial interest in property from a

person or persons to a REIT, complementing the capital gains tax exemption on similar transfers and promoting the growth and attractiveness of REITs as investment vehicles.

2.8 ROAD MAINTENANCE LEVY FUND ACT, CAP.427

76. The Bill seeks to amend the Road Maintenance Levy Fund Act, Cap. 427 to reduce the amount payable into the Road Annuity Fund from three shillings (KSh. 3) to one shilling and fifty cents (KSh. 1.50).

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1LEGAL FRAMEWORK ON PUBLIC PARTICIPATION

77. Article 118 (1)(b) of the Constitution provides that:
"Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees."

78. The National Assembly Standing Order 127 (3) and (3A) stipulates that:
"(3) The Departmental Committee to which a Bill is committed shall ***facilitate public participation on the Bill*** *through an appropriate mechanism, including-*

(a) inviting submission of memoranda;
(b) holding public hearings;
(c) consulting relevant stakeholders in sector; and
(d) consulting experts on technical subjects.
(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House."

3.2 MEMORANDA RECEIVED ON THE BILL

79. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 11th May 2026 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Clerk of the National Assembly vide letters: Ref.No.NA/DDC/F&NP/2026/081, NA/DDC/F&NP/2026/082, NA/DDC/F&NP/2026/084, NA/DDC/F&NP/2026/085, NA/DDC/F&NP/2026/086, dated 11th May, 2026 NA/DDC/F&NP/2026/83; dated 13th May, 2026 NA/DDC/F&NP/2026/087, NA/DDC/F&NP/2026/088, dated 19th May, 2026NA/DDC/F&NP/2026/089 dated 21st May, 2026; and Ref. NA/DDC/F&NP/2026/090, NA/DDC/F&NP/2026/091 dated 22nd May 2026 invited key stakeholders to submit views on the Bill and attend a stakeholder engagement forum from 21st May, 2026 to 29th May 2026 at Glee Hotel, Kiambu County.

80. During the stakeholder engagement process, the public and various stakeholders and experts actively participated by presenting memoranda and making submissions on different clauses of the Bill.

81. The Committee also held consultations with relevant government agencies from Tuesday, 9th to Friday, 12th June 2026, namely, the Office of the Auditor General; the Office of the Attorney General; the Nairobi International Financial Centre Authority; Capital Markets Authority; Central Bank of Kenya; Communications Authority of Kenya; the Ministry of Roads and Transport; the Ministry of Investments,

Trade and Industry; the State Department for Mining; the State Department for Housing; the Ministry of East African Community, the ASALs and Regional Development; the Ministry of the National Treasury and Economic Planning and Kenya Revenue Authority.

3.3 PUBLIC HEARINGS ON THE BILL

82. The Clerk of the National Assembly placed an advertisement in the print media on Saturday, 30th May 2026, inviting the public to attend public hearings from Tuesday, 2nd June 2026 to Monday, 8th June 2026 in thirteen (13) Counties, namely; Wajir, Kiambu, Vihiga, Nyamira, Bomet, Makueni, Siaya, Taita Taveta, Nairobi, Turkana, Kilifi, Tana River and Mombasa Counties. During the hearings, the public had the opportunity to discuss and present their views.

83. The feedback received from these interactions provided valuable input, highlighting specific concerns and suggestions for amendments. The submissions on various clauses of the Bill were as follows: -

3.3.1 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)

Clause 2(b)

84. Delete the proposal because the imposition of Withholding Tax on card-related transactions will increase the cost of electronic payment systems, which is inconsistent with broader government objectives of promoting cashless transactions and expanding digital financing infrastructure.

Committee Observation

The Committee noted the concerns raised by ICPAK but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c) (vii)

85. Delete the proposal because it would significantly undermine the country's digital transformation agenda by increasing the cost of technology acquisition. This measure

would, in effect, act as a disincentive to innovation, investment, and access to critical digital infrastructure.

Committee Observation

The Committee noted that the provision relates to proprietary rights which constitute royalties. As such, the submission by ICPAK was not supported.

Clause 3 (b) (i)

86. Amend the proposal to read as follows;

"(i) the gratuity was for a contract of service for a continuous period of ***at least three years or for shorter fixed-term or renewable contracts*** *where the employment relationship is continuous in nature;"*

87. The amendment will protect employees in sectors such as NGOs, consultancy, construction, and donor-funded projects from unintended additional tax burdens, while still maintaining safeguards against abuse of the gratuity provisions.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 4

88. Clarify whether the proposed non-resident rental income tax replaces the existing withholding tax mechanism or whether the current withholding tax obligations are intended to remain in force. Further, the applicable rate should be clearly prescribed within the Third Schedule to ensure certainty and effective implementation. They proposed a rate of 10% on gross income.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but noted that the Third Schedule sets out the rate which is not proposed to be amended. Additionally, the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already

prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 16

89. Delete the proposal because it may interfere with legitimate commercial and business decisions, create uncertainty due to subjective criteria and penalize growth-oriented and capital-intensive businesses.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue collection and business flexibility.

Clause 17(a)(i)

90. Delete the proposal and amend the current provision to read as follows:

"Payments made by the national carrier or any carrier locally registered in Kenya to a non-resident for specialized technical, maintenance, compliance, training, or digital systems support services, where such services are not available in Kenya or the service provider is certified or accredited by an international regulatory, standard-setting, or licensing body."

Committee Observation

The Committee acknowledged ICPAK's concerns and agreed that the proposed repeal of the exemption on payments by the national carrier to non-resident service providers would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. However, this provision was targeted to the national carrier and as such ICPAK's proposal was not supported.

Clause 19

91. Delete the proposal because this would increase compliance costs, especially for highly regulated sectors such as finance and insurance, which are required to complete statutory audits, comply with IFRS, and board approvals prior to finalization of tax returns.

Committee Observation

The Committee acknowledged ICPAK's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22(b) (i)

92. Delete the proposal because the reduced withholding tax rate supports the objectives of regional integration by encouraging cross-border investment and economic cooperation among EAC Partner States. Providing preferential treatment to EAC investors may position Kenya as a more attractive destination for regional investment relative to other jurisdictions and encourage greater participation in Kenya's capital markets and business sector.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but observed that the proposed amendment removes the preferential five percent (5%) withholding tax rate on dividends paid to East African citizens to promote equity in the tax system, reduce revenue leakage, and align tax incentives with the National Tax Policy on the rationalization of tax expenditures.

Clause 23

93. Retain the principle of taxing indirect offshore transfers deriving value from Kenya, while introducing objective nexus and materiality thresholds, proportional attribution principles limiting taxation to Kenyan-derived value, valuation guidance and exclusions for bona fide internal group reorganisations where there is no change in ultimate beneficial ownership. Additionally, clarify that Kenyan CGT applies only to the proportion of gain attributable to Kenyan-derived value or assets, rather than the full offshore gain.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework.

The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained.

New proposal

94. The current PAYE bands are narrow, meaning that the higher rates apply at relatively lower incomes. This imposes an unfair burden on lower-income earners and makes our system more regressive than progressive. They proposed

i. Both the increase in the lowest tax band to KES 30,00 and the expansion of the tax bands to ensure that the higher PAYE rates apply to higher income earners.
ii. A reduction of the PAYE rate from 35% to 28% to align with our proposed corporate tax rate. In addition, we recommend an increase in the personal relief from the current KES 2,400 per month (KES 28,800 annually) to KES 3,000 per month (KES 36,000 annually), to align with our proposed lowest monthly taxable income band of KES 30,000 per month.
iii. Expansion of the current PAYE bands to provide for wider and more progressive bands of 10%, 15%, 20%, 25% and 28%.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores measures to cushion low-income earners.

Clause 27

95. Permit progressive utilisation-based adjustment of input VAT attributable to inventory, raw materials, components, spare parts, and work-in-progress held at the transition date, rather than requiring immediate full reversal upon transition to VAT-exempt status.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but observed that the proposed section establishes a clear and necessary VAT

adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

96. Delete the proposal and retain the two-year period for claiming VAT bad debt relief under Section 31(1)(a) of the VAT Act. This will enhance continuity in business operations as planned and encourage voluntary compliance by the business owners.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but observed that reducing the threshold for claiming relief on bad debts to ninety (90) days, or shortening it to twelve (12) months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 29(a)

97. Delete the proposal because this change introduces ambiguity as to whether businesses below the VAT registration threshold may be required or permitted to issue invoices reflecting tax amounts despite not being legally entitled to charge or account for VAT. Section 23 of the TPA addresses this concern. In addition, eTIMS ensures KRA has the required visibility over taxpayer transactions.

Committee Observation

The Committee considered the concerns raised by ICPAK and recommended deletion of the proposal.

Clause 31 (a) (ix) 163

98. Delete the proposal and amend the current provision to apply to the supply of imported finished telephones for cellular networks or other wireless networks. Alternatively, where locally assembled phones are transitioned to VAT exempt status, extend equivalent VAT exemption treatment to production inputs directly used in

local assembly, including components, raw materials, spare parts and production materials.

Committee Observation
The Committee considered the concerns raised by ICPAK and recommended deletion of the proposal.

99. Additionally, clarify the effective dates of the clause. Section 1 of the Bill references section 32(a)(x) paragraph 163 with an effective date of 1 January 2027. However, section 32(a)(x) paragraph 163 does not appear in the current drafting, while the relevant amendment now appears under Section 31(a)(ix) paragraph 163.

Committee Observation
The Committee noted ICPAK's concerns and recommended amendment to clause 1 to clarify the effective dates for all the provisions in the Bill.

Clause 31 (b) (i)

100. Delete the proposal because it will increase the cost of financial services, mainly related to payments or transfers. It will further undermine the country's position as a financial hub in the region.

Committee Observation
The Committee acknowledged the concerns raised by ICPAK as it would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee, therefore, recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31 (b) (i) (b) (ii)

101. Clarify that payment processing, merchant settlement, gateway aggregation, and related digital payment infrastructure services supplied as part of financial transaction processing or payment facilitation services remain VAT exempt where forming part of financial intermediation services. Alternatively, limit the exclusion to standalone software, licensing or technology services not directly linked to payment processing or financial intermediation activities.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK as it would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee, therefore, recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32 (a)

102. Delete the proposal or provide a special rate of 5% to these manufacturers. This is because the cost of the raw materials and the inputs would rise, and given the transition from zero-rated to exempt, then the input VAT would not be claimable, which may have the effect of rising costs of medications.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally purchased or imported for the manufacture of pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 32 (e, f, g)

103. Delete the proposal and retain the goods in zero-rating status. Retaining the zero-rated status would support continued investment in clean energy and sustainable transport solutions, which are key to the country's climate change commitments and transition to a low-carbon economy.

Committee Observation

The Committee agreed with ICPAK to delete the proposals.

Clause 32 (h)

104. Delete the proposal because there needs to be consistency in policy initiatives. Currently, the government is focusing on subsidizing production and other inputs in

bid to address food insecurity. As such, making animal feeds tax-exempt would imply higher costs of animal and animal products.

Committee Observation
The Committee agreed with ICPAK to delete the proposal.

New proposal
Value Added Tax (VAT) rate

105. Reduce VAT rate to 15% in the first year and then gradually to 14%. This would align the VAT Act with the Government's policy objectives under the Medium-Term Revenue Strategy (MTRS), in which a reduced VAT rate was scheduled for implementation in the fiscal years 2024/25 to 2026/27 in order to cushion the ordinary citizen. Therefore, amend Section 5(2)(b) of the VAT Act to read as follows:
"5(2)(b) in any other case, fifteen per cent of the taxable value of the taxable supply, the value of imported taxable goods or the value of a supply of imported taxable services."

Committee Observation
The Committee noted that reducing the standard VAT rate from 16% to 14% would result in a significant and immediate contraction of domestic tax revenues, undermining fiscal consolidation objectives under the Medium-Term Revenue Strategy and increasing reliance on alternative, potentially more distortionary taxes. The proposal in the MTRS to reduce the VAT rate from 16% to 14% in a staggered manner is tied to successful rationalisation of tax expenditures, i.e. restricting zero-rating to exports and exemptions to essential goods, which has not been realised. This is meant to cushion the tax revenues from shocks as a result of reduction in the tax rates. As such the proposal was not supported.

VAT Refunds

106. Allow the offset between the different tax heads as per the provisions of the TPA. Ensures operating capital and continuity in cashflows within businesses.

Committee Observation
The Committee noted that there was distinction in the administration of each tax type to ensure that each tax type is administered and accounted for separately, in accordance with the respective legal frameworks. Additionally, due to the structural differences in tax administration-where various taxes are managed through distinct departments and systems-allowing cross-tax offsets could lead to administrative inefficiencies and potential errors. It is therefore, administratively impractical to offset some taxes such as PAYE or taxes, fees and levies on imports against overpaid

VAT. From a fiscal policy perspective, permitting such offsets could further complicate tax administration and create unintended complexities. This will also create a loophole for erosion of tax base. Further, the East African Community Customs Management Act (EACCMA) 2004 provides for payment of duty, specifically Regulation 131 of the EAC Customs Management Regulations (EACMR), 2010, which provides for modes of payment of duties, for which no provision relates to offset of taxes. Since EACCMA 2004 and its Regulations, EACMR 2010, do not provide for mechanism for offsetting of overpaid taxes against duty payable on imports (without receipt of funds) as a mode of payment of imports duties, allowing offset of approved Value Added Tax (VAT) refunds against import duty liabilities will contravene the EACCMA. As such the proposal was not supported.

Clause 34

107. Retain excise duty crystallisation at importation or local manufacture in accordance with the existing Excise Duty Act framework. Alternatively, where the activation-based framework is retained, clarify that IMEI registration, SIM registration, and telecom network verification mechanisms are to support compliance verification, anti-illicit trade enforcement, and downstream reconciliation purposes rather than serve as the primary excise crystallization point.

108. Provide transitional provisions clarifying the treatment of devices imported or locally manufactured before the effective date where excise duty was already accounted for under the existing framework, including confirmation that such devices will not be subject to additional excise duty upon subsequent activation.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 35

109. The proposed activation-based framework introduces a materially different excise administration and compliance model requiring operational coordination across telecom operators, importers, manufacturers, distributors and device-financing platforms. In the absence of detailed implementation regulations, the framework may create significant uncertainty regarding reconciliation processes, reporting obligations, downstream data verification and treatment of non-standard device events across the supply chain. Alternatively, Introduce a phased pilot or transitional implementation framework before full operational enforcement of the activation-based excise system.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(xiii – xxxiii)

110. Delete the proposal because this flaunts the non-tariff barriers Act and EAC Protocols as the EAC is a common market. The government needs to assess and ascertain the availability of domestic manufacturers of these products and their capability of meeting and sustaining the demand of these products. This would provide an informed position on whether the removal of these incentives from EAC imports would have a positive effect on the domestic manufacturers or a negative effect on the pricing and costing of products.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 36 (a) (i)

111. Retain application of the excise duty framework to imported finished mobile phones while excluding locally manufactured or assembled mobile phones from the excise duty framework. Amend the clause to read as follows:

"Telephones for cellular networks and other wireless networks imported into Kenya — 25% of the excisable value."

Committee Observation

The Committee agreed with the concerns raised by ICPAK and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore recommended deletion of the proposal.

Clause 36 (b) (ii)

112. Delete the clause in its entirety. Horse racing is not really a betting activity but rather a sport and the current provision was designed to support horse racing. This proposal would adversely affect the sport within the country and lead to offshoring of horse racing and betting activities.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK and observed that the proposal in the Bill harmonise terms and definitions relating to betting and gaming activities under the Excise Duty Act.

New proposal

Section 14 of the Excise Duty Act.

113. Amend to include offset of excise tax paid on packaging materials used for manufacture. This will accord taxpayers a relief on excise tax paid on excisable packaging material with the impact of accelerating investment and economic recovery. The new sub-section should read as follows;

"Where excise duty has been paid in respect of excisable goods imported into, or manufactured in Kenya by a licensed manufacturer and which have been used as raw materials and packaging materials in the manufacture of other excisable goods (hereinafter referred to as finished goods, the excise duty paid on the raw shall be offset against the excise duty payable on the finished goods."

Committee Observation

The Committee noted that Excise relief on raw materials is meant to prevent tax cascading on production inputs, not to subsidise packaging, which is a distinct, taxable component of the finished product. Allowing rebates on packaging materials undermines the design of excise taxation and creates an uneven playing field between manufacturers. The quantified revenue loss demonstrates a material fiscal risk of the proposal. Excluding packaging materials protects revenue while preserving legitimate relief for true production inputs as Packaging materials are not

considered as raw materials in both manufacturing and accounting practice internationally. As such, the proposal was not supported.

Clause 38

114. Without threshold limits, the requirement will impose heavy administrative burdens on small VASPs and casual crypto users. Amend to provide:
(a) clear definition of reportable user and controlling person aligned with OECD Crypto-Asset Reporting Framework (CARF);
(b) a minimum threshold (e.g., annual transactions above Kshs.1 million) below which reporting is not required;
(c) a phased implementation period of at least 12 months from enactment;
(d) data protection safeguards by cross-referencing with the Data Protection Act, 2019.

115. Additionally, revise section 6C to: limit reporting to Kenya-resident users and transactions with Kenya-source indicators;

a) set a materiality threshold (e.g., KES value / transaction count);
b) require Commissioner to prescribe data fields via regulations after stakeholder consultation;
c) reduce KES 1M "failure/nil return" penalty to tiered penalties linked to turnover or severity;
d) add "safe harbor" where VASP relied on reasonable KYC/AML data.

116. Amend section 6D to expressly require:

(i) data protection safeguards,
(ii) reciprocity,
(iii) proportionality and purpose limitation,
(iv) a defined retention period, and
(v)parliamentary tabling of any agreement for transparency.

Committee Observation

The Committee agreed with ICPAK's proposal of cross-referencing with the Data Protection Act, 2019 and their proportionality and purpose limitation.

Clause 41

117. Amend section 18A by inserting:
(i) requirement to issue written reasons (substance-over-form analysis),
(ii) explicit taxpayer right to seek advance ruling for complex transactions
(iii)clarify that this applies prospectively to arrangements entered after commencement.

Committee Observation
The Committee agreed with ICPAK.

Clause 42

118. Assessments without prior notice violate the principles of fair administrative action under Article 47 of the Constitution. Taxpayers should have an opportunity to correct errors in third-party data before being subjected to assessments. Amend section 29A to require:
(a) mandatory taxpayer notice at least 30 days before an assessment is issued, giving the taxpayer the opportunity to provide explanations;
(b) an explicit right of objection under section 51 of the Tax Procedures Act; written reasons for the assessment to accompany the assessment notice.

119. Additionally, amend to require:
(i) "Reasonable grounds" threshold,
(ii) mandatory notice of basis (data relied on, assumptions),
(iii) taxpayer right to respond within defined time before final assessment (except jeopardy assessments),
(iv) define "deemed necessary" to specific triggers (e.g., non-filing, mismatch, under-reporting indicators).

Committee Observation
The Committee agreed with ICPAK.

Clause 44

120. Delete the proposal, retain the relief principle and tighten it:
(i) keep payer relief where recipient has paid full principal tax but require verifiable evidence from KRA systems, and
(ii) payer still liable for penalties/interest only where there was negligence or willful default.

Committee Observation
The Committee considered the concerns raised by ICPAK and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

121. Delete the proposal in its entirety and retain the current provision because it safeguards against enforcement action where a taxpayer has lodged an appeal. The amendment undermines the principle of fair administration and may weaken taxpayer confidence in the effectiveness of the tax appeals process. Agency notices issued during appeals may disrupt business operations and affect liquidity imposing hardship on taxpayers whose disputes have not been determined.

122. Alternatively, replace with clearer guardrails: agency notices only after

(i) Objection or appeal timelines lapse,
(ii) final enforceable debt exists,
(iii) taxpayer given 7–14 days pre-notice "final demand", and
(iv) hardship considerations applied for SMEs/wage earners.

Committee Observation

The Committee considered the concerns raised by ICPAK and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 48

123. Amend the proposal to:

(i) clarify that taxpayer remains responsible for accuracy but errors attributable to KRA data integrations should be protected by a statutory safe harbour;
(ii) require audit trail and data sources displayed;
(iii)allow easy correction workflows without penalty.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 49

124. Delete the proposal and insert a modernized rule: timelines computed in calendar days but where deadline falls on non-working day, it moves to next working day; and provide e-filing time stamp protection.

Committee Observation

The Committee considered the concerns raised by ICPAK and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 50

125. Amend the clause to a graduated compliance model:

(i) first failure - warning/administrative penalty capped (e.g., KES 10k–50k),

(ii)repeated failure - higher penalty linked to turnover,

(iii) 2 times tax due reserved for deliberate fraud/evasion;

(iv) define "circumstances beyond control" broadly (system downtime, bank outages).

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 51

126. Amend the clause to;

(i) remove rigid KES 2m cap or allow Commissioner to waive above cap with approval of CS;

(ii) require public incident notices where KRA system failures occur;

(iii)taxpayer should not be required to prove the malfunction beyond reasonable evidence.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

Clause 53

127. Retain the 20% RMLF allocation or clearly redirect the reduced 10% to county roads which are currently underfunded. Reducing the RMLF allocation without a corresponding increase in the roads budget will worsen Kenya's road maintenance backlog.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but noted the need to ensure that the Kenya Revenue Authority is adequately resourced to enhance revenue collection and strengthen tax administration. In view of this, the Committee agreed to delete the proposal.

Clause 54

128. Amend to clarify by expressly listing the relevant levies (IDF, RDL, export levy if still applicable) or defining "Part III fees and levies" precisely to avoid disputes on valuation, enforcement and appeals framework. Ambiguity increases litigation and compliance friction at the border, delaying clearance and raising trade costs.

Committee Observation

The Committee acknowledged the concerns raised by ICPAK but noted that the amendment broadens the provision to ensure that all current and future fees under Part III are automatically subject to the same enforcement provisions without requiring annual legislative amendments. The Committee further observed that moving from a restrictive listing to a collective reference future-proofs the statute, simplifies legislative drafting, and ensures consistent application of collection and compliance frameworks across all levies under that Part.

Clause 55 (a) (i)

129. Retain EAC rules of origin exclusions in the IDF and excise duty schedules to avoid violating Kenya EAC Treaty obligations and East African Community Customs Management Act. Removing EAC-origin exclusions from IDF and excise categories

could be interpreted as an imposition of barriers to intra-EAC trade, violating Article 75 of the EAC Treaty. This exposes Kenya to retaliatory measures from Partner States and could disrupt regional supply chains.

Committee Observation

The Committee noted the concerns of ICPAK and resolved to delete the proposal in the Bill.

Clause 55 (a) (ii) & (b) (ii)

130. Amend to extend equivalent IDF and RDL relief to components, raw materials, spare parts and production inputs imported for direct use in the local assembly or manufacture of mobile phones. The new sub-section should read as follows;

"Imported telephones for cellular networks and other wireless networks, including components, raw materials, spare parts and production inputs imported for direct use in the local assembly or manufacture of such telephones."

Committee Observation

The Committee noted the concerns of ICPAK and resolved to delete the proposal in the Bill.

3.3.2 WESTMINISTER CONSULTING

Clause 2(a)

131. Adopt the proposal because the amendment clarifies the definition of immovable property and removes potential ambiguity in its application.

Clause 3

132. Delete the clause requiring gratuity to arise from a contract of service for a continuous period of at least three years, since the amendment unfairly disadvantages employees engaged under short-term contracts, particularly in sectors such as construction, NGOs, consultancy, and project-based employment, where fixed-term engagements are common. The proposal would deny preferential gratuity treatment to employees whose employment arrangements are commercially and operationally structured around shorter contractual cycles, thereby creating inequitable tax treatment among employees.

Committee Observation

The Committee acknowledged the concerns raised by Westminister Consulting but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee

further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 7(n)

133. Accept the proposal introducing withholding tax on the sale of scrap metal as the measure would strengthen tax administration, improve traceability of transactions, formalize the scrap metal sector, and enhance compliance through the creation of a documentation trail at the point of commercial purchase. Nevertheless, the stakeholder recommended that imported scrap metal be exempted from the proposed withholding tax given that imported scrap is already subject to customs controls and import documentation requirements; while subjecting it to additional withholding tax would unnecessarily increase production costs for manufacturers and recyclers reliant on imported raw materials.

Committee Observation

The Committee acknowledged the concerns raised by Westminister Consulting but noted that the proposed withholding tax on scrap metal is intended to formalize the sector, improve traceability of transactions, and reduce revenue leakage in a sector characterized by significant informality. The Committee further observed that implementation concerns may be addressed through administrative guidance, but do not justify deleting or narrowing the proposed measure.

Clause 17(a)(i)

134. Delete and amend the proposal to read as follows:

"(iii) payments made by the national carrier to a non-resident person for specialized technical, maintenance, compliance, training, digital systems support services, integrated transaction processing services, or other technology-enabled operational support services, where such services are not readily available in Kenya or the service provider is certified, licensed, or accredited by an international regulatory, standard-setting, professional, or licensing body."

135. International aviation operations depend heavily on highly specialised technical; maintenance, compliance, training, and digital systems support services that are not readily available locally. Imposing withholding tax on such payments would increase operational costs, reduce the competitiveness of the national carrier, and undermine compliance with international aviation standards.

Committee Observation

The Committee acknowledged Westminister Consulting's concerns and agreed that the proposed repeal of the exemption on payments by the national carrier to non-resident service providers would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. The Committee further noted the potential adverse impact on competitiveness and operational efficiency of the national carrier and therefore recommended deletion of the proposal.

Clause 19(a)

136. Adopt this clause as it is aimed at harmonizing the Value Added Tax Act, 2013 with the Tax Procedures Act, 2015, which presently provides a comprehensive framework governing assessment across tax laws. This will reduce duplication and minimize interpretational inconsistencies between the two statutes.

Clause 19(b)

137. Amend the proposal because a nil return does not mean a business was inactive. Many fully operational businesses, including manufacturers and capital-intensive companies, can legitimately end up with no tax payable after applying lawful reliefs such as investment deductions, capital allowances, or carried-forward losses. These businesses still need to complete full financial accounts, conduct audits, reconcile figures, and run tax computations before filing an accurate return. Completing all of this within one month of year-end is not realistic for most active businesses.

Committee Observation

The Committee acknowledged Westminister Consulting's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 25

138. Accept the proposal because the deletion of the definitions of "assessment", "information technology", and "tax computerized system" constitutes a legislative clean-up exercise intended to harmonize the Value Added Tax Act with the Tax Procedures Act, 2015 and eliminate obsolete references arising from the transition to digital tax administration systems such as eTIMS. The amendment would reduce

duplication and minimise interpretational inconsistencies between tax statutes without materially affecting substantive tax obligations.

Clause 27

139. Accept the proposal because the amendment strengthens the integrity and neutrality of the VAT system by ensuring that input tax deductions are retained only where goods are ultimately applied towards taxable supplies. The proposed adjustment mechanism addresses potential leakage arising where taxpayers claim input VAT on goods that subsequently become exempt supplies while still held in inventory. However, the stakeholder noted that the proposal will increase compliance obligations through enhanced inventory tracking and retrospective attribution requirements, particularly for sectors frequently affected by VAT status changes.

Clause 31(a)(ii)

140. Delete the proposal excluding spare parts from VAT exemption under official aid-funded projects because spare parts constitute an integral component of project implementation, maintenance, and operational continuity in donor-funded infrastructure, transport, and medical projects. Subjecting such spare parts to VAT would increase project costs, reduce the value derived from donor funding, and adversely affect project efficiency and implementation timelines.

Committee Observation

The Committee acknowledged the concerns raised by Westminister Consulting. However, it observed that it is difficult to verify whether items are exclusively used for the purpose specified in the law. Therefore, the Committee recommended deletion of the proposal.

Clause 31(a)(v)

141. Delete the proposal because removal of VAT exemptions on aircraft, aircraft spare parts, aviation instruments, and related equipment would significantly increase operational and maintenance costs within the aviation industry, disrupt maintenance schedules, and reduce Kenya's competitiveness as a regional aviation and logistics hub. Further, the proposed requirement for prior approvals from aviation authorities may create unnecessary administrative delays and operational inefficiencies within the sector.

Committee Observation

The Committee acknowledged the concerns raised by Westminister Consulting and agreed that removing the VAT exemption on aircraft, helicopters, and related equipment would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial

aviation services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31(b)(iv)

142. Delete the proposal to exempt goods directly and exclusively used in Public Private Partnership (PPP) infrastructure projects from VAT because the exemption is likely to create irrecoverable input VAT costs, distort the VAT credit chain, discourage private sector participation, and increase project implementation costs through embedded tax burdens. The stakeholder recommended retention of the supplies as taxable at the standard rate while allowing full recoverability of input VAT through an efficient refund mechanism in order to preserve VAT neutrality and enhance the commercial viability of PPP arrangements.

Committee Observation

The Committee noted the concern raised by Westminister Consulting and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended retention of the proposal.

Clauses 34 and 35

143. Accept the proposal shifting excise duty liability on mobile phones from the point of importation or manufacture to the point of activation because the measure is intended to improve traceability of devices, enhance tax compliance, and reduce revenue leakage arising from informal market channels. The stakeholder proposed a harmonisation of the implementation timelines under Sections 6 and 36 of the Excise Duty Act and development of clear regulations governing collection, remittance, and accountability mechanisms in order to avoid administrative uncertainty and operational challenges.

Clause 36 (a) (xiii) to (xxxiii)

144. Amend the proposal by inserting, under the deleted provisions of the First Schedule, a definition of the term "imported" to also include goods originating from the East African Community (EAC), in order to address the clean-up and provide clarity in the application of the provision as given below;

"imported" to mean goods brought into Kenya from a foreign country, a special economic zone, or an export processing zone, but excluding goods originating from EAC Partner States that meet the EAC Rules of Origin and/or goods from SEZ or EPZ whose content originates from the customs territory.

145. This would preserve the preferential treatment intended under the EAC trade arrangements and support continued intra-regional trade.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 55

146. Delete the proposal narrowing the exemption under the Railway Development Levy and Import Declaration Fee for aviation-related goods because restricting the exemption to specific tariff headings would increase importation costs for certain aircraft, training equipment, and aviation-related machinery that previously benefited from the broader Chapter 88 exemption. Retaining the broader exemption is necessary to support the aviation sector, maintain consistency in the treatment of aviation equipment, and avoid increased operational costs within the industry.

Committee Observation

The Committee noted the concerns of Westminister Consulting and resolved to delete the proposal in the Bill.

New Provisions

147. Type A Botulinum Toxin under HS Code 3002.90.00 be fully exempted from standard rate VAT under the VAT Act. The objective of this exemption is to reduce the cost burden on essential and specialized medical treatment by ensuring that a critical pharmaceutical product used in clinical care is not subject to VAT.

Committee Observation

The Committee acknowledged Westminister Consulting's proposal but noted that the VAT framework already provides targeted tax relief for essential medicines and medicaments through existing exemptions provisions, consistent with the National Tax Policy objective of maintaining a broad-based VAT system while limiting incentives to products of significant public health importance. Granting a product-specific VAT exemption for Type A Botulinum Toxin would create preferential treatment, increase complexity in tax administration, and set a precedent for similar requests from other specialised pharmaceutical products, thereby eroding the VAT base. Further, the product has both therapeutic and elective aesthetic applications, making a targeted exemption difficult to justify on equity and efficiency grounds. As such the proposal is not supported.

Second Schedule of ITA

148. The investment allowance applicable to LPG storage infrastructure projects should be enhanced to one hundred percent (100%) in the first year on all qualifying capital expenditure incurred in the construction and development of LPG storage facilities, since LPG storage projects are highly capital-intensive and require substantial upfront investment before commercial returns are realized. Granting full upfront tax relief would improve project cash flow, enhance investment viability, accelerate development of storage infrastructure, and strengthen national energy security.

Committee Observation

The Committee noted the proposal and stayed the matter to enable further consultation before Second Reading of the Bill.

149. The importation and local purchase of goods and services used in the construction of LPG storage infrastructure be exempted from VAT given that VAT currently imposed on such inputs significantly increases the capital cost of developing LPG storage facilities and discourages investment in critical energy infrastructure. The exemption would lower project costs, encourage expansion of LPG storage capacity, improve supply reliability, and support transition towards cleaner and more sustainable cooking energy solutions.

Committee Observation

The Committee noted the proposal and stayed the matter to enable further consultation before Second Reading of the Bill.

150. Petroleum products supplied to the Ministry of Defence be zero-rated for VAT purposes rather than exempted because the current exemption framework results in irrecoverable input VAT costs being embedded within the petroleum supply chain, thereby increasing procurement costs for government. Zero-rating would allow suppliers to recover input VAT, eliminate tax cascading, improve price transparency, and enhance efficiency in Defence fuel procurement.

Committee Observation

The Committee noted the proposal and stayed the matter to enable further consultation before Second Reading of the Bill.

151. Imported inputs, machinery, equipment, and construction materials used specifically for development and establishment of LPG storage infrastructure be exempted from Import Declaration Fee and Railway Development Levy owing to the fact that these levies significantly increase the upfront capital cost of investment in LPG infrastructure projects. Removing the levies would promote expansion of storage facilities,

encourage private sector participation, strengthen energy security, and support Kenya's transition towards cleaner energy solutions.

Committee Observation
The Committee noted the proposal and stayed the matter to enable further consultation before Second Reading of the Bill.

152. Income earned by non-resident individuals engaged by resident international air transport operators for duties performed outside Kenya be excluded from income deemed to accrue in or derive from Kenya considering that international aviation operations inherently involve globally mobile personnel whose services are performed across multiple jurisdictions. Subjecting such income to Kenyan taxation may expose both airlines and employees to double taxation, increase operational costs, and reduce competitiveness of Kenyan international air transport operators.

Committee Observation
The Committee noted the proposal and stayed the matter to enable further consultation before Second Reading of the Bill.

153. Commissions paid by resident air transport operators to non-resident agents for securing international transport services be exempted from withholding tax as such commissions arise from cross-border operational arrangements that are integral to international aviation activities and are generally structured under globally standardised agency frameworks. Subjecting such payments to withholding tax would increase operational costs and create additional compliance burdens for resident international air transport operators.

Committee Observation
The Committee noted that the proposal would expand an existing sector-specific withholding tax exemption beyond its original policy intent, thereby narrowing the tax base and creating preferential treatment for a particular industry contrary to the National Tax Policy principles of equity and neutrality. Commissions paid to non-resident agents constitute income derived from services connected to business activities of Kenyan resident entities and should remain subject to the applicable withholding tax framework unless specifically exempted on compelling policy grounds. Further, any potential double taxation concerns can be addressed through Kenya's Double Taxation Agreements and foreign tax credit mechanisms, making the proposed exemption unnecessary. As such the proposal is not supported.

154. The VAT Act be amended to expressly provide for zero-rating of both passengers and cargo transported by air carriers on international flights because the amendment would align Kenya's VAT framework with global best practices, eliminate ambiguity in interpretation of international air cargo transportation, facilitate international trade, and support growth of the aviation and export sectors.

Committee Observation

The Committee noted that the current VAT framework already provides for the zero-rating of qualifying exports and international transportation services, including international air cargo under existing export-related provisions, thereby achieving the intended policy outcome. Introducing an additional explicit zero-rating provision would be largely duplicative, add unnecessary complexity to the legislation, and create potential interpretational overlaps within the VAT Act. Further, no evidence has been provided to demonstrate that the existing legal framework has resulted in material taxation, compliance burdens, or impediments to international air cargo operations that would warrant legislative intervention. As such the proposal is not supported.

155. Paragraph 6 of Part A of the Second Schedule to the VAT Act be amended to zero-rate both goods and services supplied to international sea and air carriers on international voyage or flight since international carriers rely on both operational services and essential goods such as fuel, aircraft spare parts, and maintenance components during their operations. Extending zero-rating to goods and services would reduce operational costs, enhance certainty in VAT treatment, and simplify compliance for suppliers and operators within the sector.

Committee Observation

The Committee noted that the proposal would significantly broaden the scope of zero-rated supplies beyond the current policy design, which deliberately limits preferential VAT treatment to clearly defined export-related transactions in order to protect the domestic tax base. Extending zero-rating to goods and services supplied to international carriers would introduce substantial revenue leakage risks and create opportunities for abuse and misclassification of domestic supplies as qualifying international supplies. In addition, the existing VAT framework already provides targeted relief for exports and international transport services, making further expansion unnecessary and inconsistent with the National Tax Policy objective of maintaining a broad, neutral, and efficient VAT system with rational exemptions. As such the proposal is not supported.

3.3.3 ANJARWALLA & KHANNA (KENYA) (ALN)

Clause 2 (c)

156. Delete the proposal because the amendment is a legislative override of a final judicial determination (Parliament's legislative override of the Supreme Court of Kenya's conclusive determination in Barclays Bank of Kenya Limited v Commissioner for Domestic Taxes (SC Petition No. 12 (E014) of 2022) that interchange fees, merchant service fees, and card network participation fees do not constitute "royalties" under the ITA.

Committee Observation

The Committee noted that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 2 (b)

157. Delete the proposal because it is a legislative override of a final judicial determination (Barclays Bank of Kenya Limited v Commissioner for Domestic Taxes, Supreme Court Petition No. 12 (E014) of 2022, where the Supreme Court held that interchange fees, merchant service fees and any other card-related payments do not constitute management or professional fees on the basis that the fees are earned on a transaction-by-transaction basis).

Committee Observation

The Committee noted the concerns raised by ALN but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework. The amendment, therefore, is not a legislative override.

Clause 13

158. Amend the term "sufficient *interest*" be expressly defined in the bill to read as follows:

"Sufficient interest means an ownership interest, held directly or indirectly, in one or more Constituent Entities of such magnitude that the holding entity is required to prepare Consolidated Financial Statements under the accounting principles generally applicable in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in that jurisdiction."

159. The definition limits tax disputes based on interpretive issues because of the absence of a definition of the term "sufficient interest"; the proposed amendment may create uncertainty regarding which entity within the multinational group qualifies as a UPE, as such result in inconsistent interpretation.

Committee Observation

The Committee noted that the proposal to define the term "sufficient interest" in line with the OECD BEPS Action 13 Model raises complex policy and implementation issues that require further consideration and may be considered in a future budget cycle after a comprehensive assessment of its legal and administrative implications.

Clause 16

160. Delete the proposal so that the provision continues to apply on a case-by-case basis, accommodating the working capital needs of diverse businesses. The amendment considers businesses as though they share identical capital needs, which is damaging to capital-intensive industries, such as manufacturing, that rely on reinvesting retained earnings to fund infrastructural needs.

Committee Observation

The Committee acknowledged the concerns raised by ALN and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19

161. Delete the proposal or defer pending stakeholder consultation and a phased implementation period. Incompatibility with audit and accounting cycles because for businesses with complex structures, group consolidations, or transfer pricing obligations, four months from December are insufficient to complete the audit and compliance process required to support an accurate return.

Committee Observation

The Committee acknowledged the ALN's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23

162. Delete the proposal since it overlaps with existing provisions of Paragraph 2 (b) and (c) of the Eighth Schedule to the ITA. The amendment may make the country less attractive for foreign investors as the new provisions seem targeted specifically to non-residents, even though they are covered under the existing provisions.

Committee Observation

The noted the proposal by ALN, however the provision is intended to close a legislative gap by ensuring the gains derived from Kenyan assets remain taxable in Kenya.

Clause 28

163. Delete the proposal and retain the current provision in the VAT Act because it may place taxpayers at a procedural disadvantage as they will be financing the VAT on the bad debts for a longer period, thus affecting business cash flows.

Committee Observation

The Committee acknowledged the concerns raised by ALN but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clauses 31 (a)(ix)161 and 32(a)

164. Delete the proposal and retain the current provision in the VAT Act because the proposed change will impact the ability of the manufacturers of pharmaceutical products to claim input VAT, thus increasing the costs of the products.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally purchased or imported for the manufacture of pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost

of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clauses 31 (a)(ix) 165,166, 167 and 32 (e), (f), (g)

165. Delete the proposal and retain the current provision in the VAT Act because moving e-mobility goods from zero-rated to exempt supplies would significantly reduce the sector's investment appeal.

Committee Observation
The Committee agreed with ALN.

Clauses 31 (a)(ix) 168 and 32 (i)

166. Delete the proposal and retain the current provision in the VAT Act because reclassifying solar and lithium-ion batteries and BEV stoves from zero-rated to VAT-exempt risks undermining Kenya's progress toward its Sustainable Development Goals and raising retail prices.

Committee Observations
The Committee acknowledged the concerns raised by ALN but observed that the proposed amendment transfers selected Bioethanol vapour from VAT zero-rated status to VAT exempt status in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term Revenue Strategy. The Committee further noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clauses 31 (a)(ix) 160 and 32 (h)

167. Delete the proposal and retain the current provision in the VAT Act because the proposed change will impact the ability of the manufacturers to claim input VAT.

Committee Observation
The Committee acknowledged the concerns raised by ALNand agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the Committee recommended to delete the proposal.

Clause 31(b) (i)

168. Delete the proposal because the exclusion of these services from exempt financial services would result in an increase in the cost of financial services.

Committee Observation

The Committee acknowledged the concerns raised by ALN and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 34

169. Retain the current excise duty crystallisation at importation or at the point of removal from licensed premises for local manufacture. The proposal departs from the current excise duty framework by introducing activation as the primary taxing point without an operational framework. The proposal, therefore, requires further refinement to ensure operational certainty and practical implementation.

Committee Observation

The Committee acknowledged the concerns raised by ALN and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 35

170. The phrase "by the time of activation" is ambiguous in the context of a tax payment obligation. Importers, local manufacturers, and mobile network operators will require immediate implementation of clear operational regulations to avoid uncertainty, operational challenges, and compliance disputes. Clearly define the term "*activation*" and redraft to provide that excise duty becomes due "*upon activation*" rather than "*by the time of activation*."

Committee Observation

The Committee acknowledged the concerns raised by ALN and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection

from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 36 (a) (i)

171. Retain excise duty on imported finished mobile phones while excluding locally manufactured or assembled phones to support local manufacturing, assembly, and value addition. The amendment broadens the excise duty base by extending the charge from imported cellular phones to all telephones under the tariff heading 8517. It also increases the excise duty rate from 10% to 25% of the excisable value, increasing the cost of mobile devices and reducing affordability.

Committee Observation

The Committee agreed with ALN to delete the proposal.

Clause 36(a) (xiii)

172. Delete the clause and retain the current provisions "excluding goods from the East African Community that meet the Rules of Origin". The proposal may enhance domestic revenue collection and provide additional protection to local manufacturers, but it may discourage intra-EAC trade, disrupt established regional supply chains, undermine the objectives of the EAC Treaty, the Customs Union Protocol, and the Common Market Protocol, and heighten the risk of regional trade disputes.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 44

173. Delete the clause and retain the current provision under section 39A (2). The current provision protects against double taxation and ensures that the same principal tax is not recovered twice from both the withholding agent and the recipient of the income. However, the proposed amendment permits KRA to recover principal tax from a withholding agent, notwithstanding that the tax would be fully accounted for by the recipient. This creates a risk of double taxation, and therefore the proposal would undermine fairness and proportionality in tax administration.

Committee Observation
The Committee considered the concerns raised by ALN and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee, therefore, agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

174. Delete the proposal because the amendment will claw back on the expediency and efficiency in dispute resolution at the High Court that was achieved with the introduction of section 42(14)(e) of the TPA in 2023.

Committee Observation
The Committee agreed with ALN.

Clause 49

175. Retain the current provision excluding weekends and public holidays in computing appeal timelines to uphold procedural fairness and certainty in tax administration. Deleting the provision means taxpayers will revert to shorter effective filing timelines, thereby increasing procedural compliance risks and potentially disadvantaging taxpayers.

Committee Observation
The Committee agreed with ALN.

3.3.4 DELOITTE & TOUCHE LLP

Clause 2(b) and (c)

176. Delete the proposed definitions of "management or professional fee" to include interchange fees and merchant service fees and "royalty" to include payments for use of digital platforms and card transaction networks. This is because recharacterizing the card payment ecosystem fees as management or professional fees or royalties contradicts the Supreme Court's finding that such payments are operational settlement flows and do not constitute management fees or royalties. Further that, the proposal would result in, among others, significant legal uncertainty and undermine predictability in tax administration.

Committee Observation

The Committee noted the concerns raised by stakeholders but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further observed that the provision on royalties relates should be retained as it relates to proprietary rights.

Clause 3(a)

177. Delete the proposal for the benefit of employees receiving gratuity on contracts of service for shorter periods for fairness as employees who participate in gratuity schemes typically do not also participate in pension schemes.

Committee Observation

The Committee acknowledged the concerns raised by Deloitte & Touche LLP but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 3(b)

178. Delete the proposed proviso (ga)(i) which stipulates a contract for service for a continuous period of at least three years. This is because unlike employees who participate in a pension scheme and enjoy tax benefits at the time of contribution and at the time of withdrawal subject to the set conditions and without limitation on their contract period, employees participating in a gratuity scheme cannot enjoy similar benefits particularly those on short-term or discontinuous contracts.

Committee Observation

The Committee acknowledged the concerns raised by Deloitte & Touche LLP but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax

base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 4

179. Delete the proposal and instead amend the Third Schedule to replace paragraph 10 of the Schedule with the following on non-resident rental income to aid implementation of the proposal, and to provide for a lower rate to encourage non-residents to choose the self-declaration regime, promote registration with KRA and support a more efficient tax administration. on non-resident rental income:

"The rate of tax in respect of rental income shall be –

a. seven-point five percent (7.5%) of the gross rental receipts derived by a taxable resident person under section 6A in respect of residential income;

b. twenty percent (20%) of the gross rental receipts derived by a taxable non-resident person under section 6B in respect of non-residential rental income."

Committee Observation

The Committee acknowledged the concerns raised by Deloitte & Touche LLP but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 9(a)

180. Amend the proposal to read as "Section 12 of the Income Tax Act is amended by deleting subsection (1)" for clarity and simplicity. This is because introducing a new exemption for individuals whose only income is emoluments is unnecessary as section 12(1)(b) of the Income Tax Act already exempts those whose tax on emoluments is fully deducted at source from the installment tax regime.

Committee Observation

The Committee acknowledged the concerns raised by Deloitte & Touche LLP but observed that the proposed amendment exempts taxpayers with only employment income from instalment tax following the repeal of the minimum tax provisions, thereby restoring the original intent of applying instalment tax mainly to non-PAYE income. The Committee further noted that the amendment improves clarity and compliance certainty.

Clause 16

181. Amend the proposed 60% minimum threshold for deemed dividend on undistributed profits to 30% which is a more flexible and realistic threshold that would strike a fair balance between addressing tax avoidance and allowing businesses to retain earnings for legitimate commercial requirements.

Committee Observation

The Committee acknowledged the concerns raised by Deloitte & Touche LLP and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19(a)

182. Delete the entire proposal. This is because though the proposal seeks to accelerate tax reporting timelines and align Kenya's tax administration with regional standards, immediate implementation would pose significant challenges that outweigh the expected benefits.

Committee Observation

The Committee acknowledged Deloitte & Touche LLP's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23(d)

183. Delete proposal because the existing provision of law already provides comprehensive coverage of gains subject to tax. Further that, the proposal would risk ambiguity and interpretational conflicts entailing risk of overlap with existing provisions, undermining the threshold test and increased Capital Gains Tax disputes.

Committee Observation

The Committee acknowledged the concerns raised by Deloitte & Touche LLP but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived

from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value. In view of this, the Committee did not support the proposal for deletion and recommended that the clause be retained.

Clause 31(b)(i)

184. Amend the proposal to level the playing field for all players in the financial services sector, prevent discouraging financial innovation and invention in the financial services sector, improve traceability of transactions and align with international best practice as follows:

" (b) the issue, transfer, receipt or any other dealing with money, including –

(i) money transfer services;

(ii) accepting over the counter payments of household bills, and

(iii) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money."

Committee Observation

The Committee acknowledged the concerns raised by Deloitte & Touche LLP and recommended amendment of the Clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 34

185. Delete the proposal because it raises significant challenges requiring to be addressed before implementation such as uncertainty over excisable value, ambiguity over the duty-bearer in accounting for and remitting the excise duty at activation, privacy concerns since tracking device activations require access to sensitive user data, and practical and enforcement challenges.

Committee Observation

The Committee agreed with the proposal by Deloitte & Touche LLP to delete the Clause.

Clause 36(a)(xiii) to (xxxiii)

186. Delete the proposals and instead amend the definition of "import" in section 2 by adding the following proviso to provide that goods originating from the East African Community (EAC) Partner States should not be considered as imported goods to prevent undermining the objectives of the EAC Customs Union Protocol which seeks to promote free trade among Partner States and eliminate non-tarriff barriers affecting intra-EAC trade:

"Provided that where the goods originate from the East African Community Partner States, and meets the East African Community Rules of Origin, the goods shall not be considered as import."

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 38

187. Introduce clear definitions of "reportable users" and "reportable persons" being that the reporting obligations on VASPs directly relate to data on the reportable persons/users. Such clarity is critical to delineate the scope of reporting, mitigate interpretational uncertainty and ensure consistent compliance across the sector thereby reducing the risk of inadvertent non-compliance, administrative bottlenecks and potential litigation.

188. In addition, introduce a new sub-section (7) to the proposed Section 6C to empower the Cabinet Secretary to promulgate regulations governing the filing of information returns to ensure the technical and procedural aspects of information return filings are appropriately prescribed, to support effective tax administration and to align Kenya's approach with global best practice in the oversight of virtual asset transactions. The proposed sub-section to read as follows:

"The Cabinet Secretary may take regulations necessary for the implementation of this section."

Committee Observation

The Committee noted the proposals by Deloitte & Touche LLP but was of the view that the provisions in the new Section 6C were adequate.

Clause 41

189. Revise the proposal to further amend Section 18A to provide for regulations that stipulate, among others, the criteria for identifying and determining a tax avoidance scheme, a clear distinction between legitimate transaction planning measures and tax avoidance schemes, an explicit requirement for the Commissioner to provide detailed reasons for any determination under the provision, and inclusion of a right for the taxpayer to make representations and to object the Commissioner's assessment before issuance of the determination of tax avoidance. These would prevent uncertainty, increased disputes and the potential to discourage legitimate business activity.

Committee Observation

The Committee noted the proposals by Deloitte & Touche LLP but was of the view that the provisions in the new Section 18A were adequate.

Clause 44

190. Retain Section 39A(2) of the Tax Procedures Act to ensure that a withholding or deducting agent is not penalized for the principal tax where the tax has already been paid and accounted for by the recipient.

Committee Observation

The Committee agreed with Deloitte & Touche LLP.

Clause 45

191. Delete the proposal in its entirety and retain Section 42(14)(3) which precludes the Commissioner from issuing an agency notice where a taxpayer has appealed against an adverse TAT or court decision within the required statutory timelines. This is because deleting the statutory protection would contravene taxpayers' constitutional rights as well as contradict established judicial precedent in ***Katahira and Engineers International Limited v Kenya Revenue Authority; NCBA Bank Kenya Limited & Another (Interested Parties) (Judicial Review Application E022 of 2026).***

Committee Observation

The Committee agreed with Deloitte & Touche LLP.

Clause 47

192. Retain Section 47(1)(a) to maintain offset of overpaid tax on import VAT because it is crucial for supporting business cashflow and operational efficiency particularly for businesses that incur significant import VAT such as importers of petroleum products. Furthermore, retaining the section would maintain certainty and promote an efficient tax system noting that the provision was only introduced in the Finance Bill 2025.

Committee Observation
The Committee agreed with Deloitte & Touche LLP.

Clause 49

193. Whilst in support of the proposal to revert to computation of time on the basis of all calendar days, extend the statutory period for lodging appeals and objections from 30 to 45 days in Sections 51(2), 51(12), 53 and 54 to ensure taxpayers have sufficient time to prepare and submit their responses and grant the Commissioner adequate time to wholly consider taxpayers' applications on all their merits.

Committee Observation
The Committee noted the concerns of Deloitte & Touche LLP, however, it recommended deletion of the Clause.

NEW PROPOSALS

194. Amend Section 4A(1) of the Income Tax Act to peg the limitation of deferral of realized foreign exchange losses on account of Earnings Before Interest, Taxes, Depreciation and Amortization (EBITDA) on foreign borrowing or loans. This is because the existing deferral of realized exchange losses on all losses whether relating to the foreign loan or normal trading transactions is punitive to entities with significant foreign exchange losses that arise from trading/normal courses of business including heavy importers whose imports are mainly in foreign currencies as well as companies operating in the oil and gas sector.

Committee Observation
The Committee noted that the proposal would reverse the intent of the 2023 amendment, which sought to safeguard the corporate tax base and curb volatility-driven erosion of taxable income by deferring recognition of realised foreign exchange losses. Reintroducing a targeted restriction tied to foreign borrowing thresholds would reintroduce complexity, weaken the neutrality of the current framework, and create opportunities for structuring to avoid the rule, particularly in sectors with significant foreign currency exposure. Existing provisions already allow systematic spreading of allowable losses over time, and further relaxation would undermine revenue stability and fiscal predictability without sufficient evidence that the current regime is unworkable. As such the proposal was not supported.

195. Amend Section 6A of the Income Tax Act to revise the maximum taxable threshold prescribed for the rental income in the monthly rental income (MRI) regime upwards to align with the maximum taxable threshold prescribed for the Turnover Tax, currently set at twenty million shillings during any year of income. This would promote greater equity and fairness in tax administration and protect resident landlords from

being taxed under the more onerous Corporate Tax regime. Furthermore, and noting that the applicable tax rate is charged on the annual gross income, amend the section to prescribe that 50% of the income be treated as an allowable deduction for MRI purposes which the balance of the income subjected to the standard tax rate. Thus, amend sub-section (1) to read as follows:

> *"Notwithstanding any other provision of this Act, a tax to be known as residential rental income tax shall be payable with effect from the 1st January 2016 by any resident person from income which is accrued in or derived from Kenya for the use or occupation of residential property, and which is in excess of two hundred and eighty-eight thousand shillings but does not exceed twenty-five million shillings during any year of income:*
>
> *Provided that this section shall not apply where a person who would otherwise pay tax under this section, by notice in writing addressed to the Commissioner, elects not to be subject to residential rental income tax, in which case the other provisions of this Act shall apply to such a person."*

Committee Observation

The Committee noted the proposal by Westminister however it observed that the rate of rental income has remained at 7.5% for over five years and it constitutes projected revenue for the Government thus reducing the threshold for maximum taxable threshold prescribed for the rental income would reduce estimated revenue. The Committee therefore did not support the proposal.

196. Amend Section 12C(1) of the Income Tax Act to revise the minimum turnover threshold from one million shillings to two hundred and eighty-eight thousand shillings. This would align the minimum taxable threshold for turnover tax regime with the minimal taxable threshold for Residential Rental Income Tax (RRIT) and serve to enhance equity and fairness in tax administration.

Committee Observation

The Committee acknowledged the proposal by Westminister, however the proposal would materially erode the residential rental income tax base by raising the upper threshold, thereby significantly reducing effective tax yield and undermining the policy intent of taxing gross rental receipts under a simplified presumptive regime.

197. Amend section 12(2)(a) of the Income Tax Act to introduce the following new proviso to ensure that taxpayers only claim bad debts arising from circumstances which bear to their income earning activities:

"Provided that in the case of persons involved in money lending business, a bad debt which has been deemed to have become uncollectible under the guidelines shall include both the principal and interest amount and any other fees associated with the loan."

Committee Observation

The Committee noted that the proposal would fundamentally distort the income tax treatment of lending businesses by allowing deduction of loan principal, which is capital in nature and not an allowable expense under established income tax principles that permit deductions only for revenue expenditures incurred in the production of income. Existing provisions and administrative guidance already allow deduction of bad debts to the extent of income previously recognised, including interest and related charges, and any ambiguity is best addressed through clarification in practice notes rather than statutory expansion. As such, is proposal is not supported.

198. Amend Section 15(4) of the Income Tax Act to:

(i) extend the tax loss carry forward period to ten years because the existing tax loss carry forward period disproportionately and negatively impacts taxpayers I capital-intensive sectors and may stifle their future investment.

(ii) provide a transitional clause for the implementation of the 10-year limitation to ensure genuine tax losses relating to periods preceding the limitation's effective dates are not unnecessarily forfeited. Further, in the absence of a transitional clause, the limitation may be applied retrospectively to extinguish pre-existing tax losses which would violate both legal certainty and the principle of non-retrospectivity.

(iii) introduce a proviso that the limitation on the carrying forward of losses will not apply to taxpayers engaging in extractive manufacturing or agriculture activities, nor to companies engaged in business with the Government through special operating framework arrangements (SOFAs) or public-private partnerships (PPPs) for a level playground for potential investors eyeing to make investments in any of the East African countries.

Committee Observation

The Committee noted that the proposal would significantly weaken the integrity and efficiency of the corporate income tax base by extending loss utilisation beyond the recently enacted five-year limitation, which was itself designed to curb indefinite deferral of tax liabilities and improve revenue predictability. As such, is proposal is not supported.

199. Amend the Third Schedule of the Income Tax Act to revise the tax bands to cushion lower income earners from high tax rates, introduce additional rates for better

progression and to cap the maximum rate for PAYE to 30% to align with the Medium-Term Revenue Strategy (MTRS) and international best practice as follows:

(i) On the first KES 30,000 monthly income: 10% rate
(ii) On the next 30,000 monthly income: 15% rate
(iii) On the next 30,000 monthly income: 20% rate
(iv) On the next 410,000 monthly income: 25% rate
(v) On the next 500,000 monthly income: 30% rate

200. In addition, amend paragraph 1, Head A of the Schedule to increase personal relief to KES 3,000 per month to alleviate the current financial strain on taxpayers.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

201. Amend Section 5(2)(b) of the VAT Act to increase the threshold to align with the MTRS that had earmarked implementation of this measure for the years 2024/25 and 2025/26, and for potential increased overall economic growth arising from stimulated demand and reduced cost of final goods and services as follows:

"In any other case, fourteen per cent of the taxable value of the taxable supply the value of imported taxable goods or the value of a supply of imported taxable services."

Committee Observation

The Committee noted that reducing the standard VAT rate from 16% to 14% would result in a significant and immediate contraction of domestic tax revenues, undermining fiscal consolidation objectives under the Medium-Term Revenue Strategy and increasing reliance on alternative, potentially more distortionary taxes.

202. Amend Section 34(1) of the VAT Act to increase the VAT registration threshold from "five million shillings" to "eight million shillings" owing to inflation and to enhance efficiency by allowing KRA to focus on a smaller group of taxpayers with higher turnovers.

Committee Observation

The Committee noted that raising the VAT registration threshold to KSh 8 million would narrow the tax base, reduce taxpayer coverage, and

increase informality risks by excluding a significant number of medium-sized enterprises from the VAT net. As such the proposal was not supported.

203. Insert the following new paragraph 171 after 170 to the First Schedule of the VAT Act to exempt from VAT, sale of collateral by banks as it is not an independent economic activity but a direct consequence of providing credit which is already exempt from VAT:
"(171) The sale, disposal or realization of collateral, repossessed assets or secured property by or on behalf of a licensed financial institution, where such sale, disposal or realization arises from the enforcement of security in connection with a loan, credit facility or other exempt financial service."

Committee Observation
The Committee agreed with this proposal.

204. Delete the section 42 of the Excise Duty Act as a consequent amendment to Clause 41 which already proposes introducing a mechanism for the Commissioner to deal with tax avoidance schemes. This would harmonize the EDA and the TPA, preventing misinterpretation and thereby reducing disputes.

Committee Observation
The Committee noted that Section 42 of the Excise Duty Act provides targeted anti-avoidance safeguards tailored to the specific risks, valuation challenges, and abusive schemes characteristic of excisable goods, which may not be adequately addressed through a single generalized provision under the Tax Procedures Act.
As such the proposal is not supported.

205. Delete Section 42A of the Tax Procedures Act to harmonize the statutory deadline for remittance of Withholding VAT (WHVAT) with the existing withholding tax deadline such that WHVAT is to be remitted within five days after deduction by deleting (4B) and retaining sub-section (4C). This alignment would ensure consistency with best practice in tax administration.

Committee Observation
The Committee noted that deleting Section 42A(4B) would remove a clear statutory remittance timeline for VAT withholding agents and create legal uncertainty in determining the operative deadline, particularly where Section 42A(4C) already establishes enforcement consequences tied to the existing framework. As such the proposal is not supported.

206. Introduce a new Section 47(1A) of the Tax Procedures Act to enhance fairness and certainty in the administration of tax refunds, facilitate the proper closure of tax affairs, and reduce the risk of protracted disputes between taxpayers and the Commissioner as follows:

"(1A) Notwithstanding subsection (1)(a), where a taxpayer does not reasonably expect to have outstanding tax debts or future tax liabilities, the taxpayer shall be entitled to apply for a refund of overpaid tax under subsection (1)(b)."

Committee Observation

The Committee noted that the proposal would unduly constrain the Commissioner's statutory discretion under Section 47, which is designed to allow flexible management of overpayments through set-off against any outstanding or emerging liabilities, including those arising from audits or prior periods not yet assessed. As such the proposal is not supported.

207. Amend Section 51(11) of the Tax Procedures Act to increase the timelines within which the Commissioner should respond to an objection from 60 to 90 days in light of the growing number and complexity of tax disputes. This would allow both taxpayers and the Independent Review Officer sufficient opportunity to resolve tax disputes at the objection level without recourse to the judicial system.

Committee Observation

The Committee noted that extending the objection determination timeline from 60 to 90 days would weaken taxpayer safeguards embedded in Section 51(11), which are designed to promote timely resolution of disputes and prevent indefinite administrative delay. With ongoing improvements in KRA's digital systems, data integration, and risk-based case management tools, the Commissioner is increasingly better positioned to handle complex objections within the existing statutory timeframe without compromising quality of decisions. Extending the period would reduce accountability, delay revenue certainty for government, and increase the time taxpayers remain in unresolved dispute status, contrary to the objective of efficient and expedited tax dispute resolution.

As such the proposal is not supported.

208. Amend Section 68(2) and (3) of the Tax Procedures Act in line with the canon of taxation of certainty to prevent the application of varied interpretations of the same law in respect of similar transactions as follows:

"(2) If a law is enacted, or a court overturns an interpretation of the law, or the Commissioner make a public ruling that is inconsistent with a private ruling, the private

ruling, shall be withdrawn to the extent of the inconsistency of the private ruling with the law, the court decision, or the public ruling.

(3) The withdrawal of a private ruling, in whole or part, shall take effect from –

(a) the date specified in the notice of withdrawal if subsection (1) applies; (b) or the date of the judgement which overturns the Commissioner's interpretation of the law, unless the decision is under appeal; or

(c) the date of the enactment of the inconsistent law or inconsistent public riling if subsection (2) applies."

Further, amend the Tax Procedures Act to introduce a tax amnesty for all legacy outstanding liabilities relating to tax periods prior to 2015 when the iTax system was implemented in line with judicial precedent in ***Kenya Revenue Authority v Universal Corporation Ltd (Civil Appeal 150 of 2018) [2020] KECA 395 (KLR)*** and international best practice on the fundamental nature of limitation of tax administration by introducing a new Section 37E(5) to read as follows:

"Notwithstanding any other provision in this section, the Commissioner shall refrain from assessing, demanding, or recovering any outstanding tax liabilities, including principal tax, penalties, and interest, arising in respect of all tax periods prior to 1 January 2015, and shall permanently expunge from the taxpayer's account all such balances."

Committee Observation

The Committee noted that the proposal seeks to codify a treatment that is already inherent in Kenya's legal hierarchy, where judicial decisions prevail over administrative private rulings and automatically render any inconsistent ruling inoperative to the extent of the inconsistency. Introducing explicit statutory timing rules tied to court judgments would unnecessarily complicate the existing framework, create interpretational ambiguity on the effect of appeals and transitional periods, and risk undermining the finality and supremacy of judicial interpretation. The current provisions in the Tax Procedures Act already adequately address withdrawal and non-applicability of private rulings, making further legislative amendment redundant and potentially disruptive to legal certainty. As such the proposal is not supported.

3.3.5 KPMG ADVISORY SERVICES LIMITED

Clause 2(b)

209. Delete the provision expanding the definition of "management or professional fee" to include interchange fees and merchant service fees because the amendment appears to overturn the Supreme Court decision in Barclays Bank of Kenya Limited (now ABSA Bank Kenya PLC) v Commissioner of Domestic Taxes, which held that

interchange and merchant service fees do not constitute management or professional fees for withholding tax purposes. The stakeholder further noted that the proposal creates uncertainty in identification of the withholding tax payer and taxable base within complex card payment structures while likely increasing the cost of financial services to consumers through higher transaction charges.

Committee Observation

The Committee noted the concerns raised by KPMG but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

210. Delete the clause broadening the definition of "royalty" as it is not anchored in intellectual property rights and conflicts with internationally recognized principles governing royalties. The provision appears to reverse the Supreme Court decision in Barclays Bank of Kenya Limited (now ABSA Bank Kenya PLC) v Commissioner of Domestic Taxes and may expose Kenya to treaty override disputes, increase the cost of financial services, and undermine Kenya's digital economy ambitions.

Committee Observation

The Committee noted that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 16

211. Delete the proposal introducing a statutory minimum threshold of sixty per cent of undistributed retained earnings as deemed dividends as it disregards the statutory autonomy of companies to govern their internal financial affairs and may unfairly penalize businesses retaining earnings for legitimate commercial, regulatory, and operational purposes. The stakeholder further noted that the proposal conflicts with prudential capital requirements applicable to regulated entities such as banks and insurance companies while introducing subjective standards likely to create uncertainty and disputes.

Committee Observation

The Committee acknowledged the concerns raised by KPMG and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19(a)

212. Delete the proposal reducing the filing period for returns of income from six months to four months because highly regulated sectors such as banking and insurance require completion of statutory audits, IFRS-compliant financial statements, board approvals, and regulatory reporting before tax returns can be finalized. The stakeholder further noted that compressing the filing timeline would increase compliance pressure, errors, amended returns, disputes, and penalties while undermining accurate tax reporting and efficient tax administration.

Committee Observation

The Committee acknowledged the concerns raised by KPMG and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 28

213. Delete the clause and retain the two-year period for claiming VAT bad debt relief because the Finance Act, 2025 had deliberately reduced the waiting period from three years to two years in order to improve cash flow for businesses suffering bad debts. Reversing the position less than one year after implementation undermines legislative consistency and negatively affects businesses operating within cash-flow intensive sectors.

Committee Observation

The Committee acknowledged the concerns raised by KPMG but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk

premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion and recommended retention of the proposal.

Clause 31(b)(ii)

214. Delete the proposal because digital payment infrastructure is critical to Kenya's digital economy and imposing sixteen per cent VAT on such services would significantly increase transaction costs for mobile money, card payments, merchant acquiring services, gateways, tills, pay bills, and online payment platforms. The stakeholder further noted that increased transaction costs may discourage use of formal digital payment channels and undermine financial inclusion and tax transparency objectives.

Committee Observation

The Committee acknowledged the concerns raised by KPMG and recommended amendment of the Clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31(a) (ix) (158) and (161)

215. Delete the proposal introducing Paragraphs 158 and 161, moving pharmaceutical inputs, raw materials, and dialyzers from zero-rated to exempt status, because the amendment is likely to increase production costs for pharmaceutical manufacturers who would no longer recover input VAT, thereby increasing the cost of medicines and undermining affordability and access to healthcare. The stakeholder further noted that retaining zero-rating would prevent input VAT costs from being passed to consumers.

Committee Observation

The Committee agreed with KPMG to delete the new paragraph 161 to retain the zero-rating of pharmaceutical products. However, the stakeholder's proposal on dialyzers was not supported because the exemption for dialyzers is used in kidney dialysis equipment, a measure

that will help reduce the cost of healthcare and improve access to life-saving treatment.

Clauses 31(a) (ix) (165), (166) and (167)

216. Delete the proposal moving electric bicycles, electric buses, solar batteries, and lithium-ion batteries from zero-rated to exempt status because the amendment may increase costs of environmentally friendly transportation and energy products, thereby discouraging adoption of sustainable energy solutions and undermining Kenya's green economy agenda. Alternatively, the stakeholder proposed the introduction of a transition clause.

Committee Observation

The Committee agreed with KPMG to delete the proposals.

Clauses 34, 35 and 36(a)(i)

217. Delete the proposal imposing excise duty on telephones upon activation because the term "activation" is undefined and creates uncertainty regarding the taxable event, the liable person, and the applicable excise duty framework. Further, the clauses create enforcement and administrative challenges involving importers, manufacturers, mobile network operators, and foreign visitors while increasing the risk of multiple taxation events and revenue disputes.

Committee Observation

The Committee agreed with KPMG.

Clause 36(a)(xi)

218. Retain the current excise duty framework applicable to imported plastic packaging because extending excise duty to locally manufactured plastic packaging would undermine the original legislative intention of protecting local manufacturers and increase production costs for downstream manufacturers reliant on plastic packaging materials. The stakeholder further noted that the amendment would increase retail prices and reduce the competitiveness of Kenyan manufacturers both domestically and within export markets.

Committee Observation

The Committee noted the concerns of KPMG and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 38

219. Amend the clause requiring Virtual Asset Service Providers to file information returns because the provision may conflict with Section 59A(1B) of the Tax Procedures Act and the Data Protection Act by permitting disclosure of private and personal customer data beyond what is necessary for tax administration purposes. Additionally, the proposal creates risks relating to data breaches and contravenes the data minimization principle under Section 25 of the Data Protection Act.

Committee Observation

The Committee agreed with KPMG on the need to provide safeguards in alignment with the Data Protection Act, 2019.

Clause 45

220. Delete the proposal empowering the Commissioner to issue agency notices despite pending appeals before the Tax Appeals Tribunal or higher courts because the amendment undermines the right to fair hearing and would compel taxpayers to pursue additional stay applications before the High Court. This may significantly increase the High Court's workload, worsen delays in determination of tax disputes, and impose substantial cash flow burdens on taxpayers who may later succeed on appeal but still face lengthy refund processes.

Committee Observation

The Committee agreed with KPMG.

Clause 51(b)

221. Delete the proposed Ksh 2 million cap on waiver of penalties and interest arising from electronic system malfunctions because the limitation disproportionately disadvantages taxpayers with large-scale operations and substantial transaction volumes who may equally suffer system-generated compliance failures beyond their control. The stakeholder submitted that the proposed monetary ceiling creates unequal treatment among taxpayers affected by the same system-related issues.

Committee Observation

The Committee acknowledged the concerns raised by KPMG but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

New Provisions

222. Amend Section 15(2)(a) of the Income Tax Act by introducing a new provision clarifying that, for persons carrying on the business of money lending, the principal amount of a loan advanced in the ordinary course of business shall be treated as stock-

in-trade and deductible where it becomes a bad debt because the amendment would align the Income Tax Act with the economic realities of money-lending businesses, enhance legal certainty, and ensure lenders are taxed on true economic income rather than gross income. This proposal aligns with judicial precedent established in Branch International Ltd v Commissioner of Domestic Taxes and supports financial inclusion objectives.

Committee Observation

The Committee noted that the proposal fundamentally mischaracterises loan principal as stock-in-trade, contrary to established income tax principles that treat loan principal as capital advanced rather than a deductible trading expense, with deductions properly limited to income previously recognised such as interest.

Granting deductibility of principal amounts would significantly erode the tax base, create asymmetry between financial institutions and other sectors, and open avenues for abuse through aggressive provisioning and write-off practices. Existing jurisprudence and administrative guidelines already provide a structured framework for bad debt deductibility, and codifying the proposed treatment would distort the income concept and undermine tax neutrality and fiscal stability. As such the proposal is not supported.

223. Introduce a statutory definition of the term *"internet data services"* under the Excise Duty Act because the absence of a definition has created uncertainty and disputes regarding whether physical and virtual infrastructure constitute internet data services for excise duty purposes. The stakeholder proposed exclusion of infrastructure such as fibre optic cables, towers, data centres, Multiprotocol Label Switching (MPLS) systems, and licensed network facilities from the definition in order to align the law with international standards, judicial precedent, and the Communications Authority licensing framework.

Committee Observation

The Committee noted that the proposal narrows the scope of "internet data services" in a manner that excludes core components of the telecommunications value chain that are currently integral to the delivery of taxable digital services, thereby creating significant revenue leakage risks and undermining the excise duty base. The proposed exclusions of physical and virtual infrastructure, including fibre networks and data transmission services, would introduce artificial legal segmentation between infrastructure and service delivery, opening avenues for tax avoidance through recharacterisation of bundled services and increasing enforcement complexity. As such the proposal is not supported.

224. Introduce a new VAT exemption framework for projects approved under Treasury Circular No. 9 of 2018 on tax exemptions, waivers, and remissions, as the absence of an express statutory framework creates uncertainty and exposes investors relying on Government-approved incentives to retrospective tax demands. This would align statutory provisions with established Government policy, protect legitimate expectations arising from official representations, and provide a proper legislative foundation for Treasury-approved tax reliefs.

Committee Observation

The Committee noted that the proposal would unlawfully elevate an administrative framework under Treasury Circular No. 9 of 2018 into a statutory VAT exemption channel, thereby bypassing Parliament's exclusive authority to impose or waive tax through primary legislation under the Constitution and the VAT Act. Embedding circular-based approvals into the VAT Act would create a parallel, discretionary exemption regime, increasing the risk of revenue leakage, inconsistency, and erosion of the tax base contrary to the National Tax Policy objective of rationalising exemptions. Existing legal and constitutional safeguards already ensure that only exemptions expressly provided in law are valid, and legitimate expectations cannot be used to confer tax relief outside a clear statutory basis. As such the proposal is not supported.

3.3.6 LAW SOCIETY OF KENYA (LSK)

Clause 2(b) and (c)

225. Delete the proposals in line with the Supreme Court's finding that payments made to card companies like Visa and Mastercard are not royalties under the Income Tax Act and therefore not subject to withholding tax; and that interchange fees paid between banks in card transactions are not "management or professional fees" and are similarly not subject to withholding tax. Furthermore, increasing the cost of digital payments would discourage the use of electronic payment systems, which, in turn, would discourage innovation in the growing sector at both the local and global levels.

Committee Observation

The Committee noted the concerns raised LSK but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation and cost were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems

rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported. Additionally, the Committee noted that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 3

226. Delete the proposal because it narrows the existing broad tax exemption for gratuity. The three-year service requirement is restrictive and does not align with modern-day labor dynamics and unfairly excludes a large segment of the workforce from tax relief.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya and noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 4

227. Amend the proposal to expressly clarify the tax rate and to provide that the final tax replaces existing withholding obligations to ensure legal certainty.

Committee Observation

The Committee acknowledged the concerns by the Law Society of Kenya but noted that the rate is provided for in the Third Schedule to the Income Tax Act.

Clause 7

228. Mandate KRA to issue clear guidelines for purchasers on their withholding tax obligations to ensure compliance in this traditionally 'hard-to-tax' sector.

Committee Observation

The Committee noted the proposal by the Law Society of Kenya but noted that the provisions are adequate.

Clause 12

229. Refine the drafting to accurately reference the existing text in Section 18D.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya but observed that the proposed amendment cleans up Section 18D by correcting cross-references and clarifying Country-by-Country reporting obligations for multinational enterprise groups, thereby enhancing legal certainty and supporting consistent application of the reporting framework. The Committee further noted that the reporting threshold is aligned with internationally accepted OECD/G20 standards, and that lowering the threshold or requiring publication of reporting information could increase compliance burdens and raise taxpayer confidentiality concerns.

Clause 13

230. Amend the proposal to include a definition of the term "sufficient interest", introduced in the clause, within Section 18F or through regulations.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya and noted that the proposal to define the term "sufficient interest" in line with the OECD BEPS Action 13 Model raises complex policy and implementation issues that require further consideration and may be considered in a future budget cycle after a comprehensive assessment of its legal and administrative implications.

Clause 16

231. Delete the proposal and the entire Section 24(1) of the Income Tax Act because it is retrogressive as it forces cash distributions regardless of a company's operational needs, reinvestment plans, or liquidity constraints. Companies should maintain the discretion to manage their cash flows and fund expansions from retained earnings without arbitrary tax penalties.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the

Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 17(a)(i)

232. Delete the proposal because reversing the exemption would subject critical aviation maintenance and training services to a 20% WHT which would be borne by KQ, increasing its operational costs. Instead, retain the exemption for specialized technical, maintenance, and compliance services that are not available in Kenya to support the aviation industry.

Committee Observation

The Committee acknowledged concerns by the Law Society of Kenya and agreed that the proposed repeal of the exemption on payments by the national carrier to non-resident service providers would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. The Committee further noted the potential adverse impact on competitiveness and operational efficiency of the national carrier and therefore recommended deletion of the proposal.

Clause 18 and 19

233. Delete the proposals because reducing the annual tax filing deadline by two months would be an administrative impossibility for nil returns, create an unrealistic compliance pressure and raise data integrity concerns. Furthermore, audits and account reconciliations are rarely concluded by January, making this an unrealistic hurdle that undermines the self-assessment regime.

Committee Observation

The Committee acknowledged concerns by the Law Society of Kenya and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23(b)

234. Introduce a clear threshold and statutory formula for allocating the portion of the gain that is taxable in Kenya on share sales by non-residents.

Committee Observation

The Committee acknowledged concerns raised by by the Law Society of Kenya but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for amendment and recommended that the clause be retained.

Clause 26

235. Reconsider the proposal because while it may enhance compliance and reduce abuse of informal instalment arrangements, it may adversely affect SMEs and informal traders who rely on flexible credit arrangements that are not formally registered. In addition, the proposal may also increase the cost of accessing goods through instalment-based financing, particularly for low-income consumers and small businesses.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya by the stakeholder but observed that the proposed amendment clarifies the VAT treatment of financial charges by limiting the exclusion to agreements regulated under the Hire Purchase Act, while expressly ensuring that financial charges are included in the taxable value where appropriate to prevent avoidance and ensure consistent VAT treatment of hire purchase arrangements. The Committee further noted that the amendment is intended to address existing ambiguity that has allowed taxpayers to structure sales agreements to resemble hire purchase arrangements and shift value into non-taxable finance charges, thereby reducing output VAT and creating VAT leakage through aggressive contractual structuring and inconsistent application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 27

236. Delete the proposal because it introduces significant cash flow and compliance burdens for businesses holding large inventories, undermines certainty and predictability in the tax system, thereby discouraging investment in sectors vulnerable to frequent VAT status changes.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya but observed that the proposed amendment clarifies the VAT treatment of financial charges by limiting the exclusion to agreements regulated under the Hire Purchase Act, while expressly ensuring that financial charges are included in the taxable value where appropriate to prevent avoidance and ensure consistent VAT treatment of hire purchase arrangements.

The Committee further noted that the amendment is intended to address existing ambiguity that has allowed taxpayers to structure sales agreements to resemble hire purchase arrangements and shift value into non-taxable finance charges, thereby reducing output VAT and creating VAT leakage through aggressive contractual structuring and inconsistent application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 28

237. Delete the proposal because it reverses the position introduced by the Finance Act, 2025, and delays the point at which a supply may be treated as a bad debt for VAT purposes. The effect of the proposed amendment would result in delays for taxpayers to recover VAT on unpaid invoices, thereby creating a longer cash flow strain on suppliers.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion recommended retention of the proposal.

Clause 31

238. Consider including essential goods and services, particularly healthcare and agricultural inputs, for zero-rating rather than exemption in order to preserve input VAT recovery and reduce hidden costs.

Committee Observation

The Committee acknowledged the proposal by the Law Society of Kenya hence the Committee's decision to retain the zero-rate status for the essential goods listed in clause 31(a)(ix) 160, 161, 162 and163.

Clause 31(b)(i)

239. Delete the proposal because the amendment on fintech services could adversely disproportionately affect innovation within Kenya's digital financial service ecosystem, contrary to the High Court's decision in ***Pesapal Limited v Commissioner of Domestic Taxes (2025)*** that digital payment services qualify as VAT-exempt financial services.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya but observed that the proposal would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31(a)(ix)170 and (b)(iv)

240. Amend the proposal to include eligibility criteria for public-private-partnership-related VAT exemptions within the legislation or accompanying regulations with transparent application and approval processes subject to defined timelines for clarity.

Committee Observation

The Committee acknowledged concerns by the Law Society of Kenya but was of the view that the provision was adequate.

Clause 32

241. Delete the proposal, as it would prevent businesses from recovering input VAT and result in additional costs being passed down to final consumers through higher prices.

Committee Observation

The Committee agreed with by the Law Society of Kenya hence its deletion of paragraphs a to h.

Clause 34

242. Define "activation" to prevent disputes over multiple SIMs or device swaps and clarify the taxable person responsible for remittance. Furthermore, expedite drafting of the proposed regulations, with substantive public participation to ensure that all stakeholders are heard and their concerns are adequately addressed.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 36(a)(i)

243. Delete the proposal to increasing the cost of devices, undermining incentives for local assembly and hindering digital inclusion. Instead, retain the existing excise duty rate at 10% to support the government's digital economy agenda.

Committee Observation

The Committee agreed with by the Law Society of Kenya.

Clause 36(a)(v)

244. Retain the preferential rate for small independent brewers to foster competition and support the growth of the 'Bottom-Up' economy by protecting small scale manufacturers.

Committee Observation

The Committee agreed with the Law Society of Kenya.

Clause 36(a)(xxxv) Coal

245. Though the proposal aligns with green energy transitions, consider phased implementation of the reintroduction of excise duty on coal with incentives for industries to mitigate the sudden cost spike.

Committee Observation

The Committee acknowledged the concerns raised by the Law Society of Kenya but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

Clauses 37(b) and 38

246. Amend to clarify the timelines for filing information returns, for certainty and administrative planning by virtual asset service providers.

Committee Observation

The Committee observed that the proposed new Section 6C(1) provides for the timeline which is every calendar year.

Clause 40

247. Though in support of the proposal, adopt the existing definition of "investment bank" contained in the Capital Markets Act in the Tax Procedures Act for legal certainty and to prevent legal disputes.

Committee Observation

The Committee observed that although the Capital Markets Act defines an investment bank, it was unnecessary to provide for its definition in the Clause.

Clause 41

248. Delete the proposal because it appears to grant KRA authority to ignore the legal form of an arrangement and to tax it based on its perceived economic substance. Furthermore, the definitions of the terms "scheme" and "tax benefit" are so broad that they cover virtually any commercial arrangement, including express or implied agreements.

249. This broad discretion granted to the Commissioner could blur the line between aggressive avoidance and standard tax-efficient structuring for example, group financing or corporate reorganizations. Without clear guidelines or a mandate for prior engagement with taxpayers, the proposal could result in a higher volume of disputes at the Tax Appeals Tribunal as taxpayers defend commercially grounded structures.

Committee Observation

The Committee acknowledged concerns by the Law Society of Kenya but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

250. Delete the proposal or, in the alternative, amend to introduce adequate procedural safeguards before the Commissioner may issue assessments under the proposed Section 29A. Specifically, amend the proposal to require the Commissioner to notify the taxpayer of the data relied upon and afford a reasonable opportunity to reconcile or respond before any assessment is raised. Furthermore, agency notices should be subject to the burden of proof resting on the KRA in respect of its assessments which shifts where the KRA assessments and self-assessment do not align.

Committee Observation

The Committee acknowledged concerns by the Law Society of Kenya but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

251. Delete the proposal because, if enacted, withholding agents could be required to account for principal tax even where the recipient has already paid the tax. This would create a risk of double taxation and additional financial exposure.

Committee Observation

The Committee agreed with the proposal by the Law Society of Kenya.

Clause 45

252. Delete the proposal because it would undermine taxpayers' rights to justice, appeal and fair administrative action. Furthermore, the deleting the proposal would be in line with the High Court's decision in ***Katahira and Engineers International Limited v***

Kenya Revenue Authority (Judicial Review Application E022 of 2026) [2026] KEHC 687 (KLR) (Judicial Review) (30 January 2026) (Ruling) that KRA cannot lawfully issue or enforce agency notices against a taxpayer's bank accounts without proving, inter alia, compliance with statutory due process, especially where earlier assessments had already been set aside by the Tax Appeals Tribunal.

Committee Observation
The Committee agreed with the proposal by the Law Society of Kenya.

Clause 47

253. Delete the proposal because it would adversely affect cash flow, particularly, for import intensive and export-oriented businesses that regularly accumulate VAT credits. In practice, affected taxpayers may be forced to rely on the refund process, which is often lengthy and audit-intensive, rather than using available credits to meet immediate tax obligations.

Committee Observation
The Committee agreed with the proposal by the Law Society of Kenya.

Clause 49

254. Delete the proposal because it is likely to increase the risks of missed filings due to shorter deadlines. The shorter timelines may effectively deny taxpayers fair justice contrary to Article 50(2)(c) of the Constitution that guarantees every person the right to have adequate time and facilities to prepare a defence.

Committee Observation
The Committee agreed with the proposal by the Law Society of Kenya.

Clause 52

255. Defer implementation of the proposal until the regulations are finalized as the absence of clear operational guidelines may create significant uncertainty and practical challenges in enforcement and compliance.

Committee Observation
The Committee acknowledged the concerns raised by the stakeholder but noted that clause 52 is related to clause 48 hence the Committee recommended its retention. The provision addresses the stakeholder's concerns since it provides for the requirement of making of the regulations.

Clause 55(a)(i) and (b)(i)

256. Delete the proposal because, though it could only provide relief to larger aircraft and parts, it would increase costs for the aviation sector and medical evacuation services that rely on helicopters.

Committee Observation
The Committee agreed with the proposal by the Law Society of Kenya.

New Proposals

257. To enhance tax equity and increase disposable income for salaried workers in line with the Medium-Term Revenue Strategy (FY 2024/25 – 2026/27), amend paragraph 1 under Head A to the Third Schedule to increase personal relief to KES 3,000 per month to set tax-free thresholds at KES 30,000. Similarly, amend paragraph 1 under Head B to the Third Schedule to the Income Tax Act by deleting the existing PAYE band and substituting therefor the following new bands:

"a) on the first KES 30,000 – 10%
b) on the next KES 8,333 – 20%
c) on the next KES 461,667 – 25%
d) on the next KES 300,000 – 27.5%
e) on all income over KES 800,000 – 30%"

Committee Observation
The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

258. Amend the Income Tax Act to provide for tax exemption of SACCO contributions made through the check-off system from employment income, similar to the treatment of pension contributions and subject to the same statutory limits applicable to retirement benefit schemes. This would promote structured savings and financial inclusion.

Committee Observation
The Committee noted the proposal needed further consultation and also noted that the House is considering a law relating to SACCOs, as such the proposal was not supported.

3.3.7 KENYA BANKERS' ASSOCIATION (KBA)

Clause 2 (b)

259. Delete clause 2(b) that proposes to review the definition of management or professional fees to include interchange fees and merchant service fees arising from transactions that use a card as a means of payment. This would require the payment of withholding tax on these fees. According to KBA, this proposal would reverse a settled judicial authority, increase the costs of digital payments, and present the risk of double taxation.

Committee Observation

The Committee noted the concerns raised by KBA but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)(a)(vii)

260. Delete clause 2(c)(a)(vii) that proposes to amend the definition of 'royalty' to include card network fees and digital platform access fees as royalties. KBA submitted that characterizing card network fees and digital platform access fees as "royalties" conflates use of an intellectual property right with commercial use of infrastructure.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 5

261. Delete clause 5 and restore Section 8(5) of the Income Tax Act that was deleted by Act No. 9 of 2025. According to KBA, restoring the exemption for lump-sum pension payments for individuals taking early retirement is justified on economic, social, and administrative grounds.

Committee Observation

The Committee took note of the concerns raised by KBA and observed that the proposed amendment is a consequential clean-up intended to

remove an obsolete cross-reference and ensure consistency and clarity in the Income Tax Act.

Clause 16

262. Delete the clause as the proposed threshold of deeming at least 60% of undistributed income as dividends is unreasonably high and may restrict companies' ability to retain earnings as a safeguard against future periods of low performance or economic uncertainty.

Committee Observation

The Committee acknowledged the concerns raised by KBA and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 20(a)

263. The stakeholder proposed that the exemption proposed in Clause 20 be amended to cover benefits arising due to redundancy, up to a maximum of Kshs 600,000 per annum. KBA submitted that redundancy payments are not a reward for services rendered, but rather compensatory amounts intended to cushion employees against sudden loss of employment and income uncertainty.

Committee Observation

The Committee observed that KBA's proposal falls outside the scope of clause 20(a).

Clause 31(b)(i)

264. Delete the clause since subjecting some of these services to VAT merely because they are supplied through software or a platform would create artificial distinctions, increase transaction costs and undermine the principle of tax neutrality. KBA proposed that the provision be replaced with the following: -

(b) the issue, transfer, receipt or any other dealing
with money, including —
(i) money transfer services,
(ii) accepting over the counter payments of household bills, and
(iii) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment

integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform
but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money.

265. The KBA noted that the proposal above would amount to taxing capital flows rather than final consumption, level the playing field for all players in the financial services sector, and improve the traceability of transactions through digital payments.

Committee Observation
The Committee acknowledged the concerns raised by KBA and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 44

266. Delete this clause as it seeks to remove the protection granted to a taxpayer who fails to withhold Value Added Tax despite the payee having paid for the full underlying tax liability. KBA submitted that the proposed amendment in the Bill may result in double taxation.

Committee Observation
The Committee agreed with KBA.

Clause 45

267. Delete clause 45 of the Bill in its entirety since it would allow the Commissioner to issue agency notices even while an appeal is actively pending. However, if retained, KBA proposed that Section 42 of the Tax Procedures Act be amended to provide that agency notices should only be issued during a pending appeal where the Commissioner demonstrates, to the satisfaction of the Court, that there is a real risk of dissipation of assets or non-recovery of tax, and only after giving the taxpayer an opportunity to be heard.

Committee Observation
The Committee agreed with KBA.

New Proposals - Income Tax Act
Section 2

268. Amend the definition of the word 'paid' in Section 2 of the Income Tax Act to provide a new definition for 'paid' to read as follows: -
"paid" includes distributed, credited, dealt with or deemed to have been paid in the interest of or on behalf of a person, and "pay", "payment" and "payable" have corresponding meanings; but does not include accruals, provisions or internal accounting adjustments where no amount has been paid, credited, set off, made available to, or dealt with on behalf of the recipient.

269. KBA submitted that while an accrual does not entail any cash movement, payment of taxes on accrual requires cash payment. This mismatch forces businesses to use their short-term working capital to meet their tax obligations. Their proposed definition would exclude accrued amounts that are recognized in accounting records but have not yet been transferred or paid out to the suppliers.

Committee Observation
The Committee noted the proposal by KBA but was of a contrary opinion.

Section 15 (2)(a)

270. The stakeholder proposed the introduction of a new proviso under Section 15 (2)(a) of the Income Tax Act to read as follows:
Provided that, in the case of a person carrying on a money-lending business, including a licensed bank, microfinance institution, digital credit provider or other regulated credit provider, a debt that has become bad in accordance with guidelines issued by the Commissioner shall include the principal, interest and any other amount relating to the debt.

271. According to KBA, bad debts incurred by money lending businesses are a direct consequence of lending, which is their core business. Such bad debts should therefore be allowable, inclusive of both the principal and interest elements.
Committee Observation
The Committee noted the proposal by KBA but was of a contrary opinion.

Section 15(2) (af)

272. Amend Section 15 of Income Tax Act by inserting a new subsection 15(2) (af) as follows:
"Where a person derives both taxable and exempt income, any expenditure incurred in the production of both such incomes shall be apportioned on a fair and reasonable basis, and only the portion of expenditure attributable to taxable income shall be allowed as a deduction Provided that the Commissioner shall prescribe rules for the direct attribution and apportionment of such expenditure, taking into account international best practice and following consultation with relevant industry stakeholders"

273. KBA submitted that the absence of clear statutory rules on how banks should treat expenses related to exempt income has resulted in conflicting interpretations, unpredictable tax outcomes, and costly litigation between banks and the KRA.

Committee Observation

The Committee noted the proposal by KBA but was of a contrary opinion.

Section 15(4)

274. Amend Section 15(4) to read as follows:

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 ten years of income.

Provided that any deficit incurred by a person as at 1st July 2021 shall be deemed to have been incurred in that year of income.

275. Extending the loss carry-forward period to ten years will enable KBA members to offset losses against future profits, ensuring that banks are taxed on their average profitability over time. The stakeholder submitted that this is especially important for the banking sector, where members are required to maintain minimum capital levels and often undertake large-scale, long-term investments, resulting in cyclical fluctuations in income.

Committee Observation

The Committee noted the proposal by KBA but was of a contrary opinion.

Section 16(1)(c)

276. Amend section (16)(1)(c) to extend the effective date for the deductibility of expenses supported by eTIMS invoices from 1 January 2024 to 1 January 2027. The KBA proposed that this would ensure the impact is on a going forward basis rather than retrospective citing that the past 3 years were mostly piloting and ensuring that taxpayers are onboarded into the system.

Committee Observation

The Committee noted that the proposal would delay the transition to the full implementation to eTIMS **and taxpayer compliance with the digital tax system. As such, the proposal was not supported.**

Section 35 (5)

277. Section 35 (5) of the Income Tax Act be amended to read as follows**:**

Where a person deducts tax under this section he shall, on or before the 5th day of the month following the month in which the deduction was made:

a) remit the amount so deducted to the Commissioner together with a return in the form prescribed by the Commissioner showing the amount of the payment, the amount of tax deducted, and such other information as the Commissioner may specify; and

b) furnish the person to whom the payment is made with a certificate stating the amount of the payment and the amount of the tax deducted

278. KBA proposed that this would alleviate the administrative burden on taxpayers to comply with the current provision that requires WHVAT agents to remit WHVAT within five working days of making the payment to their suppliers.

Committee Observation

The Committee noted that extending the remittance deadline for withholding tax and withholding VAT from five days to the 5th day of the following month would delay government revenue mobilisation and weaken the effectiveness of these taxes as real-time collection mechanism.

Further, the Committee noted that Withholding taxes are not cash belonging to businesses but amounts collected on behalf of the Exchequer, and allowing extended retention increases the risk of misuse, compliance slippage, and unnecessary accumulation of government revenue in private accounts. As such the proposal was not supported.

Third Schedule - Head A

279. KBA proposed the review of personal relief prescribed in Paragraph 1, Head A of the Third Schedule of the Income Tax Act to Kshs 3,000. Currently, the Act provides for a relief of Kshs 2,400 per month.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores measures to cushion low-income earners.

Third Schedule Head B 1

280. Amend the Third Schedule Head B 1 to review the personal income tax bands as follows:

Monthly Bands (Kshs)	Rate
On the first 30,000	10%
On the next 8,333	20%

On the next 461,667	25%
On the next 300,00	27.5%
On amounts over 800,000	30%

281. The stakeholder submitted that this proposal would provide a broader tax base, provide equity and buffer citizens from other statutory levies.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

New Proposals – Tax Procedures Act (TPA)

Section 23A (4)

282. Amend Section 23A (4) of the Tax Procedures Act by inserting the following words: "*accruals, forex exchange losses and other similar payments*," immediately before "payments subject to withholding tax that is a final tax".

283. The KBA submitted that exempting accruals from eTIMS requirements would align Kenya's tax framework with the International Financial Reporting Standards ("IFRS"), which provide for transactions to be recorded when they occur, as opposed to when there is cash movement.

Committee Observation

The Committee noted that the proposal introduces exemptions from eTIMS requirements that would weaken the integrity and comprehensiveness of Kenya's electronic invoicing system, which is designed to enhance real-time transaction visibility and reduce tax evasion. Further, the Committee noted that excluding accruals, forex losses, and similar items would create definitional ambiguities and carve-outs that could be exploited to underreport transactions, undermining the effectiveness of data-driven tax administration. As such the proposal was not supported.

Section 23A (5)

284. Amend Section 23A of the TPA by inserting a new subsection immediately after subsection 5-

6) The Commissioner may, by notice in the Gazette, prescribe a phased implementation schedule for the requirement to issue electronic tax invoices under this section, having

regard to the nature of the business, annual turnover, sector, or such other criteria as may be deemed appropriate to facilitate compliance and effective administration.

285. The stakeholder submitted that a phased approach to the implementation of eTIMS would ease the compliance burden on businesses, particularly during the initial stages of adoption. Further, many businesses, and SMEs in particular, may not have the systems or capacity to immediately comply with the new requirements.

Committee Observation

The Committee noted that the proposal would delay the transition to the full implementation to eTIMS and taxpayer compliance with the digital tax invoice system. As such, the proposal was not supported.

Section 42(4B)

286. Amend Section 42(4B) of the TPA to read as follows:

The tax withheld under this Section shall be remitted to the Commissioner by the 5th day of the subsequent month after the deduction was made.

Committee Observation

The Committee noted that extending the remittance deadline for withholding tax and withholding VAT from five days to the 5th day of the following month would delay government revenue mobilisation and weaken the effectiveness of these taxes as real-time collection mechanism.

Further, the Committee noted that Withholding taxes are not cash belonging to businesses but amounts collected on behalf of the Exchequer, and allowing extended retention increases the risk of misuse, compliance slippage, and unnecessary accumulation of government revenue in private accounts. As such the proposal was not supported.

Section 47(2)(b)

287. Amend Section 47(2)(b) of the TPA to read as follows:

The Commissioner shall ascertain and determine an application under subsection (1) within sixty days and where the Commissioner ascertains that there was an overpayment of tax—
(b) in the case of an application under subsection (1)(b), refund the overpaid tax within a period of sixty days from the date of ascertainment.

Committee Observation

The Committee noted that the proposal would significantly compress refund processing timelines without adequately accounting for the need for verification, risk assessment, and audit checks, thereby increasing exposure to fraudulent or erroneous refund claims. Notably, accelerating payouts to 60 days would strain administrative capacity and heighten fiscal risk,

undermining the integrity and sustainability of the refund management framework. As such the proposal is not supported.

New proposal – Value Added Tax Act
First Schedule Part I

288. KBA proposed that Part I of the First Schedule to the VAT Act be amended by inserting the following new paragraph 171 after paragraph 170:
(171) The sale, disposal or realization of collateral, repossessed assets or secured property by or on behalf of a licensed financial institution, where such sale, disposal or realization arises from the enforcement of security in connection with a loan, credit facility or other exempt financial service.

289. KBA submitted that the sale of collateral by banks is not an independent economic activity in and of itself; rather, it is a direct consequence of providing credit, which is already exempt from VAT.

Committee Observation
The Committee agreed with the proposal by KBA.

3.3.8 GRANT THORNTON TAXATION SERVICES LIMITED

Clause 2(b)

290. Delete the proposal because it would create unintended withholding tax obligations and erode the adoption and sustained use of e-payments especially with the growing digital economy.

Committee Observation
The Committee noted the concerns raised by Grant Thornton Taxation Services Limited but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty.
The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

291. Amend the proposal to omit 'proprietary digital platforms and payment systems, including all related access, participation, or usage rights and fees however described' from the proposed definition of "royalty". This is because the proposal would create

unintended withholding tax liabilities and in turn raise the cost of digital payments thus undermine financial inclusion and digital economy objectives. Furthermore, the definition of "royalty" should be limited to traditional intellectual property and know-how.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 3(b)

292. Delete the proposal because it penalizes short term contract workers, discourages formal sector participation and undermines social protection for vulnerable workers.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 16

293. Delete the proposal and retain the existing provision because it allows companies to retain income reasonably required for business needs such as reinvestment, expansion and working capital. The proposal, if enacted, would discourage incorporation in Kenya and push investment to other favourable jurisdictions or other informal business structures outside the tax net.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18

294. Delete the proposal in its entirety as imposing stricter deadlines would increase administrative costs for both taxpayers and KRA without any fiscal gain. Resources would be better spent on collecting actual tax.

Committee Observation

The Committee acknowledged the concerns by Grant Thornton Taxation Services Limited and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19(a)(i)

295. Delete the proposal in its entirety because a shorter deadline would increase errors, penalize otherwise compliant taxpayers and provide no proven benefit to tax administration. Alternatively, retain the existing six-month deadline for individuals with multiple income sources or gross income below a KES-5-million-threshold or introduce a penalty waiver for first-year transitional filing under the new deadline.

Committee Observation

The Committee acknowledged the concerns by Grant Thornton Taxation Services Limited and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22(b)(i)

296. Delete the proposal because the preferential WHT tax rate was designed to encourage cross-border investment within the EAC and its removal would discourage Uganda, Tanzania and other EAC Member States from investing in Kenyan companies.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited but observed that the proposed amendment removes the preferential five percent (5%) withholding tax rate on dividends paid to East African citizens to promote equity in the tax system,

reduce revenue leakage, and align tax incentives with the National Tax Policy on the rationalization of tax expenditures.

Clause 27

297. Delete the proposal or amend it to include clear income tax guidance and practical valuation rules. This is because the proposal could create significant administrative burdens, is silent on the corporate income tax treatment of disallowed input VAT and could generate disputes over valuation and methodology. Furthermore, it would impose cash flow penalties on businesses responding to genuine changes in their taxable status.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 36(a)(i)

298. Delete the proposal because it would increase the cost of mobile devices thereby limiting access to a large segment of the population, undermining financial inclusion.

Committee Observation

The committee agreed with Grant Thornton Taxation Services Limited.

Clause 36(a)(ii)

299. Delete the proposal because a significant increase in excise duty may lead to higher retail prices thereby reducing consumer access and negatively affecting demand for locally produced juice products.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited but noted that the current excise duty framework does not distinguish sugar-sweetened beverages from other

non-alcoholic drinks despite their higher health risks, thereby justifying a differentiated tax treatment.

Clause 36(a) (xxxiii)

300. Delete the proposal because it represents a fundamental regression from regional integration. This is because the proposal would impose heavy internal duties on goods manufactured within the bloc treating fellow member states as foreign trade adversaries rather than common market partners.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 43(a)

301. Amend the proposal to establish a more predictable and structured framework for the remission of penalties and interest upon settlement of the principal tax. Alternatively, modify the payment deadlines. This would promote sustained compliance, enhance revenue collection and reduce the need for recurring amnesty programmes.

Committee Observation

The Committee noted that the waivers and timelines provided in the Bill are sufficient.

Clause 44

302. Delete the proposal to safeguard against double taxation where tax has already been duly accounted for by the recipient and ensure the tax system does not impose multiple liabilities on the same income stream under different taxpayers.

Committee Observation

The Committee agreed with the proposal by Grant Thornton Taxation Services Limited.

Clause 45

303. Delete the proposal because collecting tax under a disputed decision violates Article 47 of the Constitution, which requires administrative action that is expeditious, efficient, lawful, reasonable, and procedurally fair.

Committee Observation

The Committee agreed with the proposal by Grant Thornton Taxation Services Limited.

Clause 47

304. Delete the proposal because excluding import VAT forces the taxpayer to pay cash at the port while waiting for a refund which is outright unjust.

Committee Observation

The Committee agreed with the proposal by Grant Thornton Taxation Services Limited.

Clause 48

305. Delete the proposal in its entirety because it is deeply unfair to taxpayers because the Commissioner would generate the return using its own data and systems but the taxpayer would remain fully liable for any errors.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 49

306. Delete the proposal and retain the existing provision of law because the latter rightfully excludes Saturdays, Sundays, and public holidays when computing time limits for lodging objections and appeals as a matter of basic fairness and not privilege.

Committee Observation

The Committee agreed with the proposal by Grant Thornton Taxation Services Limited.

Clause 51(b)

307. Amend the proposal to delete the cap on the waiver of penalties and interest arising from any system error, regardless of the amount involved. Pegging the waiver at two million shillings, as proposed, creates an arbitrary distinction that only benefits the Commissioner.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

Clause 52

308. Delete the proposal because taxpayers should never be put in a position where they are expected to rely on returns prepared by the Commissioner using its own, often unreliable, data whilst remaining fully liable for any errors.

Committee Observation

The Committee acknowledged the concerns raised by Grant Thornton Taxation Services Limited but noted that clause 52 is related to clause 48 hence the Committee recommended its retention. The provision addresses the stakeholder's concerns since it provides for the requirement of making of the regulations.

New Proposals

309. Amend Section 15(4) of the Income Tax Act because its current wording is ambiguous, allowing KRA to prematurely extinguish legitimate business losses. A clear statutory proviso removes administrative discretion, ensuring a predictable and standardized transition rule for all taxpayers. Thus, amend to read as follows:

"Provided that in computing the five-year limitation period under this section, any tax losses incurred or accumulated by a taxpayer in any year of income prior to 2025 shall be deemed to have been incurred in the year of income 2025, and the first year of potential expiry or write-off for such accumulated losses shall be the year of income 2030."

Committee Observation

The Committee noted that the proposal would undermine the policy intent of the five-year loss carry-forward limitation under Section 15(4), which is designed to ensure timely utilisation of tax losses and protect the income tax base from indefinite erosion. Treating all pre-2025 losses as if incurred in 2025 would effectively reintroduce perpetual carry-forward through a transitional deeming rule, creating significant fiscal risk and weakening the certainty and finality that the limitation seeks to establish. As such the proposal is not supported.

310. Noting that salaried employees under the PAYE framework are tax compliant by default, possess no avenues to defer or mitigate their tax liabilities and shoulder a disproportionate percentage of direct domestic tax obligations compared to the informal economy, amend Head B of the Third Schedule of the Income Tax Act to revise PAYE tax bands as follows:

"On the first Ksh. 360,000	*10%*
On the next Ksh. 240,000	*15%*
On the next Ksh. 1,200,000	*20%*
On the next Ksh. 7,800,000	*25%*
On all income over 9,600,000	*30%"*

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

311. Noting that absolute discretion of the CS under Section 13(2) of the Income Tax Act creates a bureaucratic bottleneck leading to multi-year delays that force developers to abandon strategic infrastructure projects, amend the provision to:

I. require that once a PPP project is approved by the PPP Directorate under the PPP Act, the tax exemption be legally bundled and approved automatically, completely bypassing the need for a separate, independent CS review and application process.

II. introduce a statutory provision requiring the CS to issue a formal, written approval or rejection with detailed reasons within 30 days of receiving an application.

III. transition from individual developer tax exemptions to blanket, sector-wide exemptions built directly into the law such as *Green Infrastructure Tax Code* where any qualified developer automatically enjoys the tax shield without ever needing to face the CS.

Committee Observation

The Committee noted that the proposal materially undermines the policy and legal rationale of Section 13(2), which deliberately vests exemption powers on the CS, National Treasury for the purpose of safeguarding tax collection and ensuring adherence to the tax laws. Therefore, the Cabinet Secretary plays a critical role in validating projects that should benefit from exemptions and automatic approvals of green infrastructure tax codes would weaken this statutory power given to the CS. As such the proposal was not supported.

312. Amend Section 51(2) of the Tax Procedures Act to increase the taxpayers' objection timeline from 30 to 45 days. KRA retains a full 60 days to review and issue an objection

decision, and as such, forcing taxpayers to compress their analysis, gather supporting documentation, and secure internal approvals within a strict 30-day window creates an inequitable administrative burden.

Committee Observation

The Committee noted that extending the objection window from 30 to 45 days would weaken the timeliness and finality of tax assessments, thereby delaying revenue certainty and prolonging dispute resolution in the tax system. Introducing longer objection timelines would risk encouraging tactical delays, increasing arrears in dispute pipelines, and undermining the administrative efficiency gains intended under the Tax Procedures Act. As such the proposal was not supported.

313. Amend Section A of the First Schedule to the VAT Act to introduce a new tariff under paragraph 39 as follows:

"tariff 3002.90.0 human blood and animal blood for therapeutic, prophylactic or diagnostic uses"

Committee Observation

The Committee agreed with the proposal by Grant Thornton Taxation Services Limited.

3.3.9 ANDERSEN

Clause 2(b)

314. Amend the proposal expanding the definition of *"management or professional fee"* because it is likely to increase the operational cost of card-based transactions for banks, merchants, payment processors, and consumers. The stakeholder noted that the additional tax burden may ultimately be passed on to end users through higher transaction charges, thereby undermining ongoing efforts to promote financial inclusion, digital payments, and a cashless economy. Further, withholding tax imposed on gross transaction values may create cash flow pressures for service providers operating on low-margin transactional charges.

Committee Observation

The Committee noted the concerns raised by Andersen but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be

addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

315. Amend the definition of royalty to either narrow the scope of the definition, introduce specific exclusions for regulated payment settlement arrangements, or issue regulations clearly identifying the party responsible for withholding tax in multi-party payment transactions. The broadened definition may significantly increase withholding tax exposure for financial institutions, payment processors, merchants, and digital payment intermediaries. Additionally, the proposal may create uncertainty regarding the identification of the withholding tax agent within complex payment ecosystems involving multiple intermediaries and may result in double withholding disputes, increased compliance costs, and administrative challenges.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 3

316. Accept the proposal extending exemption to gratuities paid under a contract of service for a continuous period of at least three years because the amendment may encourage employers to establish formal gratuity arrangements for employees serving under longer-term contracts while enhancing post-employment financial security for employees who are not members of registered pension schemes. Further, the proposal promotes long-term employment retention, employee welfare, and retirement planning.

Clause 4

317. Adopt the proposal introducing non-resident rental income tax under Section 6B subject to clarification on its interaction with existing withholding tax mechanisms in order to avoid overlap and double taxation where rental income is collected through resident agents. The amendment may improve compliance and administrative efficiency by formalizing obligations for non-resident landlords through a simplified registration and filing framework.

Clause 8

318. Accept the proposal to consolidate the taxation of trust income at the level of the trustee, executor, or administrator, as it enhances certainty in the taxation of trusts and estates while preventing double taxation arising from downstream distributions to beneficiaries.

Clause 16

319. Delete or amend the proposal from at least 60 percent of retained earnings to be subjected to deemed dividend treatment to 20 percent. The threshold is excessively high and may adversely affect businesses that legitimately retain profits for expansion, capital expenditure, debt servicing, or working capital requirements. Further, subjective terms such as *"within a reasonable period"* and *"without prejudice to the requirements of the company's business"* may result in inconsistent interpretation and increased disputes.

Committee Observation

The Committee acknowledged the concerns raised by Andersen and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 17(a)(i)

320. Delete the proposal removing withholding tax exemption on payments made by the national carrier to non-resident persons for specialized aviation services because the aviation industry relies heavily on internationally certified technical, maintenance, compliance, training, and digital systems support providers that are often unavailable locally. Subjecting such payments to withholding tax may increase operational costs, reduce competitiveness, and undermine compliance with international aviation standards.

Committee Observation

The Committee agreed with the proposal by Andersen.

Clauses 18 and 19

321. Delete the clause and retain the current six-month timeline for filing annual income tax returns for taxpayers with active business operations, considering that the proposal significantly shortens compliance timelines and may increase administrative burdens for businesses requiring audited accounts, reconciliations, and complex tax computations. The stakeholder, however, welcomed the requirement to file nil returns within one month as nil returns are generally simple and non-technical to prepare and submit.

Committee Observation

The Committee acknowledged the concerns by Andersen and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 20(a)

322. Accept the proposal exempting benefits arising due to death and capital gains on transfer of property to Real Estate Investment Trusts (REITs) because the amendment reduces tax friction in succession and estate administration matters while facilitating movement of assets into REIT structures, reducing transaction costs, and supporting growth within the REIT market.

Clause 23

323. Adopt the proposal with amendment to introduce clear nexus and materiality thresholds, proportional attribution rules limiting taxation to Kenyan-derived value, and exclusions for bona fide internal group reorganizations where there is no change in ultimate beneficial ownership. This aligns Kenya's capital gains tax framework with international trends targeting indirect transfers of Kenyan assets through offshore structures.

Clause 26

324. Accept the provision with amendment to broaden the exemption to include regulated credit sale, leasing, and asset financing arrangements evidenced by written agreements and conducted by regulated financial service providers. This enhances legal clarity and regulatory oversight over licensed hire purchase businesses

Clause 27

325. Delete the proposal introducing Section 17A requiring reversal of input VAT relating to unsold stock when taxable supplies become exempt because the amendment may impose significant cash flow pressure on businesses holding large inventories during VAT status changes while also creating practical implementation challenges within the eTIMS framework. The stakeholder further noted that the proposal may create transitional inequities where no relief mechanism exists for pre-existing stock.

Committee Observation

The Committee acknowledged the concerns raised by Andersen but observed that the proposed section establishes a clear and necessary VAT

adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies.

The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

326. Delete the proposal extending the period for claiming VAT relief on bad debts from two years to three years because the amendment may delay access to VAT refunds and negatively affect cash flow for businesses with significant credit sales and disputed receivables.

Committee Observation

The Committee acknowledged the concerns raised by Andersen but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity.

The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 31(a) (i) and (iv)

327. Delete the clause and retain the exemption under Paragraphs 49 and 62 because removal of VAT exemptions on aviation-related goods, tourism facilities, recreational parks, and convention infrastructure may increase capital investment and operational costs within the aviation and tourism sectors, thereby reducing competitiveness, discouraging investment, and increasing costs passed on to consumers.

Committee Observation

The Committee partly agreed with the proposal by Andersen to delete clause 31(a)(i). However, it recommended retention of clause 31(a)(iv).

Clause 31(a)(vi)

328. Adopt the proposal increasing the passenger baggage exemption threshold from USD 300 to USD 2,000 because the amendment reflects current economic realities and enhances relief for travellers.

Clause 31(b)(iv)

329. Accept the proposal on VAT exemption on qualifying goods and services directly and exclusively used in PPP infrastructure projects upon approval by the Cabinet Secretary with amendment to establish a transparent approval framework to avoid delays and discretionary decision-making in granting exemptions. The amendment may support infrastructure investment and improve project viability through reduced project costs.

Clause 31(b)(i)

330. Delete the proposal excluding payment processing, gateway, merchant acquiring, aggregation, settlement, and platform-based payment services from VAT exemption unless the scope of taxable payment services is clearly and narrowly defined because the amendment may increase transaction costs and create ambiguity in distinguishing exempt financial services from taxable payment infrastructure services.

Committee Observation

The Committee acknowledged the concerns raised by Andersen and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31(b)(iii)

331. Delete the proposal removing VAT exemption on taxable services imported or locally procured for direct and exclusive use in the construction of tourism facilities, recreational parks, and convention facilities, because it may increase project costs, discourage investment in tourism infrastructure, and negatively affect long-term growth within the tourism sector.

Committee Observation

The Committee noted the proposal by Andersen but noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds. Hence, the Committee's decision to retain the clause.

Clause 32(a) and (h)

332. Delete the proposal reclassifying inputs and raw materials used in manufacture of animal feeds and pharmaceutical products from zero-rated to exempt supplies because the amendment may increase production costs due to inability to recover input VAT, thereby increasing prices of essential goods and weakening competitiveness within the agriculture and healthcare sectors.

Committee Observation
The Committee agreed with the proposal by Andersen.

Clause 32(b)

333. Adopt the proposal reclassifying transportation of sugarcane from zero-rated to exempt status because it may reduce indirect VAT burdens on farmers and improve affordability within the sugar value chain.

Committee Observation
The Committee acknowledged the concerns raised by Andersen and agreed that rationalising VAT exemptions on the transportation of sugar will increase transportation costs. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 34

334. Delete the proposal deferring excise duty liability on mobile phones until activation because the amendment may create enforcement challenges in tracking device activation across networks while increasing the risk of revenue leakage and imposing unnecessary compliance burdens on consumers.

Committee Observation
The Committee agreed with the proposal by Andersen.

Clause 35

335. Delete the proposal requiring excise duty on mobile phones to be paid upon activation of devices because the amendment may create administrative and enforcement challenges in verifying activation across different networks and platforms while increasing risks of revenue leakage.

Committee Observation
The Committee agreed with the proposal by Andersen.

Clause 36(a)(i)

336. Delete the proposal introducing a standalone twenty-five percent (25%) excise duty on telephones for cellular and wireless networks because the amendment may significantly increase the cost of mobile devices, thereby negatively affecting affordability, digital inclusion, and access to communication tools.

Committee Observation
The Committee agreed with the proposal by Andersen.

Clause 36(a)(iii)

337. Adopt the clause removing excise duty on bottled water because the amendment may improve affordability and access to safe drinking water for consumers.

Clause 40

338. Adopt the proposal exempting non-resident persons from the requirement to obtain a PIN when opening an account with an investment bank because the amendment may improve ease of doing business and encourage foreign investment. Additionally, implementation of adequate safeguards to maintain taxpayer identification and reporting integrity was recommended.

Committee Observation
The Committee acknowledged the concerns raised by Andersen but supported a targeted exemption from the PIN requirement for foreign investors opening CDSC accounts, noting that this facilitates capital market participation. The Committee further observed that extending the exemption to investment institutions would enhance efficiency in account opening processes while maintaining regulatory safeguards. In view of this, the Committee supported a balanced approach and recommended amending the provision to include financial institutions within the exemption framework, while ensuring appropriate measures are retained to safeguard compliance and transparency.

Clause 43

339. Accept the proposal extending the tax amnesty framework to cover tax debts up to 31st December 2025 and extending timelines for payment and waiver applications to 31st December 2026 because the amendment may encourage voluntary compliance, support settlement of historical tax liabilities, and benefit taxpayers affected by financial distress and system-related compliance challenges.

Clause 45

340. Delete the proposal repealing Section 42(14)(e) because the amendment may expose taxpayers to enforcement action before exhaustion of the appellate process, thereby undermining taxpayer safeguards and cash flow stability during ongoing disputes.

Committee Observation

The Committee agreed with the proposal by Andersen.

Clause 47

341. Delete the proposal removing the ability to offset VAT payable on imports against existing tax refunds because the amendment may increase cash flow pressures on importers who would be required to separately settle import VAT while awaiting processing of refunds.

Committee Observation

The Committee agreed with the proposal by Andersen.

Clause 49

342. Delete the proposal repealing Section 77(2) because inclusion of weekends and public holidays in computation of objection and appeal timelines may effectively shorten available timelines for taxpayers and create uncertainty in statutory time computations.

Committee Observation

The Committee agreed with the proposal by Andersen.

Clause 51

343. Accept the proposal expanding the waiver framework for penalties and interest arising from system-generated errors with amendment to increase the waiver threshold from Ksh2 million to Ksh5 million. The amendment enhances fairness in tax administration by recognizing that taxpayers may suffer penalties arising from technical failures beyond their control.

New Provision

344. Revise the current PAYE framework by reducing the highest marginal Pay As You Earn (PAYE) rate from 35 per cent to between 28 and 30 per cent, widening the PAYE bands, increasing the tax-free threshold from Ksh24,000 to Ksh30,000 per month, and increasing personal relief from Ksh2,400 to Ksh3,000 per month because the current PAYE structure places a disproportionate burden on middle-income earners and significantly reduces disposable income amid increased statutory deductions and rising cost of living pressures. The stakeholder submitted that, revising the PAYE framework would improve household purchasing power, stimulate consumer spending, support Small and Medium-sized Enterprises (SMEs) dependent on consumer demand, and align with the Government's Medium-Term Revenue Strategy objectives on equity and economic growth.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

3.3.10 PRICEWATERHOUSECOOPERS KENYA (PwC)

Clause 3

345. Amend Paragraph 53(a) of Part I of the First Schedule to the Income Tax Act to clarify that the gratuity exemption is subject to the conditions provided under Sections 5(4)(g) and 5(4) (ga), while reducing the minimum qualifying contract period from three years to one year, because the current provisions create inconsistencies between the charging and exemption provisions. Aligning the provisions would enhance clarity, consistency and ease of administration of the gratuity exemption, whereas reducing the qualifying period would better reflect prevailing employment practices in Kenya.

Committee Observation

The Committee acknowledged the concerns raised by PWC but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any

implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 19(a)

346. Delete the proposed amendment reducing the timeline for filing returns from six months to four months, and retain the current six-month filing period, because the shorter filing timeline may create compliance challenges by limiting the time available for taxpayers to prepare accurate financial and tax information. Retaining the existing period would be less burdensome for regulated entities that require audited financial statements and approvals while posing no revenue risk given the Commissioner's existing review powers.

Committee Observation

The Committee acknowledged PWC's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23

347. Amend the proposed taxation of indirect disposals of Kenyan assets by introducing a clear value threshold similar to the 20 per cent threshold already contemplated under paragraphs 2(b) and 2(c) of the Eighth Schedule and provide a mechanism for attributing gains taxable in Kenya because the proposed provision is broadly drafted and may create uncertainty due to the undefined phrase *"shares derive their value from Kenya"*. Introducing thresholds and attribution rules would ensure only gains with a sufficient Kenyan nexus are taxed while reducing disputes, compliance burdens and the risk of double taxation.

Committee Observation

The Committee acknowledged the concerns raised by PWC but observed that the Clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework.

The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and

protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for amendment and recommended that the clause be retained.

Clause 27

348. Amend Section 17A in the proposed clause by limiting input tax adjustments to VAT attributable to supplies that have become exempt and introduce a cap restricting adjustments to input VAT previously deducted because the current drafting may create interpretive uncertainty and potentially result in over-recovery of input tax. The amendments would preserve VAT neutrality, align the provision with Section 17 and ensure proportional application of input tax adjustments.

Committee Observation

The Committee acknowledged the concerns raised by PWC but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

349. Amend the proposal to reduce the period for claiming bad debt relief to twelve months instead of the proposed three years because earlier recognition of irrecoverable debts would improve cash flow, enhance VAT integrity and align Kenya's framework with international practice where relief is commonly granted within six to twelve months.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not

reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity.

The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for amendment and recommended retention of the proposal.

Clause 31(a)(ix) (164) (165) (166) (167) (168)

350. Delete the proposed VAT exemptions for electric motorcycles, bicycles, batteries, electric buses and (BEV) stoves and retain their zero-rated status because converting the supplies from zero-rated to exempt would result in unrecoverable input VAT being embedded in costs, thereby increasing prices. Retaining zero-rating would preserve affordability, support green transition objectives, sustain investment and facilitate full recovery of input VAT across the affected sectors.

Committee Observation

The Committee agreed with PwC on deletion of the items enlisted in paragraphs 164, 165, 166 and 167. However, relating to paragraph 168, the Committee acknowledged the concerns raised by the stakeholder and observed that the proposed amendment transfers selected bioethanol vapour from VAT zero-rated status to VAT exempt status in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term Revenue Strategy. The Committee further noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clause 32

351. Delete the proposed VAT exemptions and retain their zero-rated status because this would result in unrecoverable input VAT being embedded in costs, thereby increasing prices. Retaining zero-rating would preserve affordability, sustain investment and facilitate full recovery of input VAT across the affected sectors.

Committee Observation

The Committee agreed with PwC to delete paragraphs (a), (b), (c), (d), (e), (f), (g) and (h). However, the Committee noted that paragraph (i) on

bioethanol vapour be retained as VAT exempt in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term Revenue Strategy. The Committee further noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clauses 34, 35 and 36(a)(i)

352. Delete the provisions and retain the current excise duty treatment on telephones by maintaining the time of supply and payment at importation or manufacture, as well as the existing 10 percent (10%) excise duty rate, because shifting the excise duty trigger to activation would create uncertainty, increase reliance on third parties, and complicate enforcement. Maintaining the current regime would support affordability and digital inclusion while ensuring certainty and administrative efficiency.

Committee Observation

The Committee agreed with PWC to delete the proposal.

Clause 36(a)(xxxiii)

353. Delete the proposed removal of excise duty relief for East African Community originating goods and amend to clarify that goods meeting the EAC Rules of Origin are not treated as imports because maintaining the relief would align with EAC Treaty obligations, avoid discriminatory taxation, reduce litigation risks and support regional trade integration through improved competitiveness as well as lower costs.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 39

354. Amend Clause 39 to introduce a statutory timeline within which the Commissioner must determine applications for reinstatement of tax registration and provide that applications shall be deemed approved where no decision is communicated within the prescribed period, because clearly defined timelines would promote certainty, support voluntary compliance, and enable taxpayers to regularise their tax affairs without unnecessary delays.

Committee Observation

The Committee agreed with PWC to introduce a statutory timeline for determining reinstatement applications, noting that it enhances efficiency,

fairness, and certainty in tax administration. The Committee further observed that deemed approval strengthens predictability for taxpayers, while cautioning that broadening the grounds for reinstatement could lead to abuse. In view of this, the Committee recommended amending the provision to provide a ninety-day timeline for determination of applications.

Clause 41

355. Amend the proposed General Anti-Avoidance Rule by decoupling it from data-mismatch information, introducing a statutory purpose threshold, and providing for the burden of proof and procedural safeguards, because the current provision is expansive and may trigger anti-avoidance measures based on data discrepancies rather than intentional tax avoidance. Incorporating safeguards would enhance constitutional compliance, investor confidence, certainty and alignment with international best practice.

Committee Observation

The Committee acknowledged the concerns of PWC but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

356. Delete the clause in its entirety because the Commissioner's stated objective to be able to act on third-party and system-generated data is already fully achievable under sections 29 and 31of the TPA, both of which authorise assessment on the basis of "available information."

Committee Observation

The Committee acknowledged the concerns of PWC but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

357. Delete the clause repealing Section 39A(2) and retain the section in its current form because repealing the provision would expose withholding agents to principal tax liability even where the recipient has already accounted for and paid the tax. Retaining the provision would promote equitable tax administration, reduce disputes and align enforcement with the substantive tax position.

Committee Observation

The Committee agreed with the proposal by PWC.

Clause 45

358. Delete the clause because permitting the issuance of agency notices during the pendency of an appeal would undermine dispute resolution processes, affect access to justice and impose significant cash flow constraints on taxpayers before the final determination of liability.

Committee Observation

The Committee agreed with the proposal by PWC.

Clause 48

359. Amend the provision to expressly provide that pre-populated tax returns are optional and that taxpayers retain the right to review, amend or decline reliance on pre-populated information because clarifying the legal effect of such returns would promote taxpayer confidence, encourage uptake of digital filing tools and ensure responsibility for accurate filing remains fairly allocated.

Committee Observation

The Committee acknowledged the concerns raised by PWC and agreed on the need for safeguards for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 49

360. Delete the proposal because this would result in statutory timelines running on a continuous calendar-day basis, thereby shortening the effective working period available to taxpayers for lodging objections and appeals. Retaining the provision would preserve legislative certainty and align with the Interpretation and General Provisions Act.

Committee Observation

The Committee agreed with the proposal by PWC.

NEW PROVISIONS

Exemption of Pension and Retirement Annuity Income Previously Subjected to Tax

361. Reintroduce the income tax exemption for pensions and retirement annuities arising from contributions that were not allowed as deductions and whose income had already been taxed because the removal of the exemption through the Finance Act, 2025, may result in double taxation of income that has already borne tax. Reinstating the exemption would enhance equity and provide certainty regarding the taxation of pensions and retirement benefits.

Committee Observation

Review of Individual Income Tax Bands and Rates

362. Review the current individual income tax bands by widening the bands to enhance progressivity and harmonising the highest individual income tax rate with the corporate income tax rate because the current structure imposes a significant burden on low and middle-income earners. The proposed reforms would align with the Medium-Term Revenue Strategy and National Tax Policy objectives of cushioning lower-income earners, improving compliance and promoting equity in taxation.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores measures to cushion low-income earners.

Burden of Proof in Commissioner-Originated Assessments

363. Amend Section 56 of the Tax Procedures Act to shift the burden of proof to the Commissioner where an assessment originates from the Commissioner because the Finance Bill introduces new powers under the General Anti-Avoidance Rule and Commissioner-originated assessments without making corresponding amendments regarding the burden of proof. Aligning the burden with the originator of the assessment would be consistent with principles of fairness and existing jurisprudence.

Committee Observation

The Committee acknowledged the concerns raised by PWC however the legal procedures for the Commissioner originated assessments and anti-avoidance rules are critical in preventing tax evasion and avoidance. In

addition, TPA provides safeguards to address the issues raised by PWC. As such, the proposal was not supported.

Offset of Overpaid Taxes Against Agency Tax Liabilities

364. Amend the Tax Procedures Act to expressly allow overpaid taxes to be offset against a taxpayer's agency tax liabilities, including PAYE, withholding tax and withholding VAT obligations because the current framework creates ambiguity and cash flow inefficiencies where taxpayers simultaneously hold tax credits and tax liabilities. Clarifying the position would eliminate disputes while remaining fiscally neutral to Government revenue.

Committee Observation

The Committee noted while the proposal is progressive, it would create deficiencies in the monthly tax collection and therefore the funding of Government. Additionally, TPA provides mechanisms for recovery of overpaid taxes. As such, the proposal was not supported.

3.3.11 INSTITUTE OF PUBLIC FINANCE (IPF)

Clause 2 (b)

365. The stakeholder supported the proposal as it will bring earnings arising from digital payment within the withholding tax regime. Further, by expressly categorizing interchange fees and merchant service fees as management or professional fees, the amendment removes uncertainty surrounding the tax treatment of revenues earned by banks, payment processors, card issuers, and other financial intermediaries involved in card payment ecosystems.

Clause 2 (c)

366. Delete the proposal expand the definition of a royalty by introducing two additional categories since the High Court, in the *Seven Seas Technologies Limited v Commissioner of Domestic Taxes* matter, expressly rejected the blanket characterisation of software distribution arrangements as royalty payments merely because software is involved. Further, the proposal fails to clearly distinguish between payments for services and payments for the use of intellectual property, which is the fundamental basis upon which royalties are ordinarily taxed.

Committee Observation

The Committee accepted the proposal.

Clause 3 (a)

367. Accept the proposal as it is a progressive step towards expanding tax relief on retirement and end-of-service benefits beyond the conventional pension scheme framework.

Clause 4

368. Accept the proposal to broaden Kenya's tax base and ensure that non-resident persons deriving income from property situated within Kenya contribute fairly to the country's revenue system.

Clauses 7 and 17

369. Accept the proposal seeking to introduce a withholding tax on income derived from the sale of scrap metal and winnings as the proposal is aimed at broadening Kenya's tax base by bringing additional revenue-generating sectors within the Income Tax framework.

Clause 8

370. Accept the proposal as it simplifies the taxation of trusts by clarifying that the primary tax obligation rests with the trustee, executor, or administrator managing the trust income.

Clause 10

371. The stakeholder supported the proposal seeking to promote affordable housing and ease the financial burden borne by employees who obtain loans for the construction, purchase, or improvement of owner-occupied houses. It is the view of the stakeholder that the amendment effectively reduces the taxable income of qualifying employees.

Clause 15

372. Accept the proposal as it seeks to consolidate the Commissioner's powers under a single statutory framework by taking this provision to the Tax Procedures Act, thereby promoting consistency, administrative efficiency, and uniform enforcement of tax avoidance provisions across different categories of taxes.

Clause 16

373. Delete the proposal as it is likely to impose an excessively rigid and punitive threshold that may not adequately consider the commercial realities and operational needs of businesses.

Committee Observation

The Committee acknowledged the concerns raised by PWC and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered

it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19

374. Delete the proposal on the change of timelines for filing tax returns. This is because it may not be feasible for corporate taxpayers, who are required to audit their financial statements before filing returns. Further, the instability in Kenya Revenue Authority systems has resulted in significant downtimes, which could lock out taxpayers if the April deadline is adopted.

Committee Observation

The Committee acknowledged the concerns raised by IPF and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 20 (a)

375. Accept the proposal because the amendment supports the efficient transfer and devolution of a deceased person's estate without imposing additional tax obligations on beneficiaries at a time often characterized by financial and emotional hardship.

Clause 20 (b)

376. Delete the proposal because this amendment may disproportionately benefit high-net-worth individuals and large property owners who may restructure or transfer assets into REITs primarily as a tax avoidance strategy.

Committee Observation

The Committee acknowledged the concerns raised by IPF but observed that while the proposed exemption supports capital market development through REITs, it lacks adequate safeguards and could be exposed to abuse through artificial restructurings, quick cash-outs, or related-party transactions. The Committee further noted that aligning the provision with international best practice requires clear anti-abuse conditions, including that transfers be undertaken for bona fide commercial purposes, consideration be in REIT units, transferred property be retained in the REIT for a minimum period, and that transferors do not retain controlling interests post-transfer. In view of these concerns, the Committee recommended amendment of the clause to incorporate the necessary

safeguards while retaining the policy intent of the exemption as contained in the Bill.

Clause 25

377. Accept the proposal as the definition of assessment is covered comprehensively in Section 3 of the Tax Procedures Act, 2015.

Clause 26

378. Accept the proposal because it restricts the exclusion of financing charges from the taxable value to suppliers licensed under the Hire Purchase Act.

Clause 27

379. Accept the proposal because it provides clarity and consistency in the treatment of input tax on supplies that no longer qualify as taxable.

Clause 28

380. Delete the proposal as it reverses an amendment passed in the Finance Act 2025, reflecting unpredictability created by frequent tax changes. Further, it is the view of the stakeholder that the proposal extends the waiting time for VAT tax refunds on unpaid supplies, affecting cash flow for businesses.

Committee Observation

The Committee acknowledged the concerns raised by IPF but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion and recommended retention of the proposal.

Clause 29

381. Accept the proposal because it delinks the issuance of invoices from the VAT registration status of a person. It is the view of the stakeholder that this proposal may possibly close a compliance gap where suppliers have historically justified non-issuance of tax invoices on the basis that they are not VAT registered, even where their transactions are taxable supplies.

Clause 30

382. Accept the proposal because it aligns with the provisions of the proposed Section 18(A) of the TPA.

Clause 31 (a) (i), (iii) and (v)

383. Delete the proposal as the inclusion will discourage a stable macro-economic, legal, and regulatory environment to support the growth of Kenya's aviation sector.

Committee Observation

The Committee agreed with the proposal by IPF.

Clause 31 (a) (ii)

384. Accept the proposal as it expands the scope of supplies excluded from exemption for use in the implementation of official aid-funded projects.

Clause 31 (a) (ix)

385. Accept the new proposal under paragraph 158 on Dialyzers of tariff number 8421.29.00. It is the view of the stakeholder that this proposal will lower the cost of dialysis.

Clause 31 (a) (ix)

386. Accept the new proposal under paragraph 159 on scrap metal. It is the view of the stakeholder that this will lower the cost of inputs for the *jua kali* sector.

Clause 31 (a) (ix) 169

387. Delete the new proposal under paragraph 169 on worn clothing and other worn articles of tariff heading 6309, other than upon importation. It is the view of the stakeholder that the shift from vatable to exempt may lead to lower retail prices for second-hand clothing more affordable, which contradicts the government's intention of growing Kenya's textiles industry.

Committee Observation

The Committee acknowledged the concerns raised by IPF but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the Committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax.

Clause 31 (b) (iii)

388. The stakeholder supported the proposal because these items should be taxable at sixteen percent (16%), especially because most of these items do not constitute basic items.

Clause 31 (b) (iv)

389. Accept the proposal as this will likely reduce the cost of PPP projects, but the government must address transparency concerns around approval and costing of PPP projects.

Clause 32 (a)

390. The stakeholder supported the proposal and further recommends that the amendment be extended and exempt all pharmaceutical final products.

Clause 32 (d), (e), (g), and (i)

391. Accept the proposal because the exemption aligns with Kenya's e-mobility policy and the government's intention to limit zero-rating to exports.

Clause 32 (h)

392. Amend by extending the exemption to final products to negate the price impact of the reclassification. It is the view of the stakeholder that this aligns with the government's intention to limit zero-rating to exports.

Committee Observation

The Committee acknowledged the concerns raised by IPF and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the Committee recommended deletion of the clause.

Clause 32 (f)

393. Accept the proposal because it supports Kenya's climate goals through the use of clean energy.

Clause 33

394. Accept the proposal because its amendment is progressive and climate-friendly as it targets high-end old vehicles.

Clauses 34 and 35

395. The stakeholder supported the proposal because Kenya loses significant revenue from illegal phone imports, evading duty at the border. By tying liability to activation, the government is trying to leverage network registration as an enforcement

mechanism. Further, this proposal also aligns with Device Identification and Registration System guidelines. Additionally, regulations should be drafted to streamline compliance and enforcement.

Committee Observation

The Committee noted the views by IPF. The Committee, however, agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 36 (a) (i)

396. Accept the proposal and develop clear guidelines on the enforcement of the new tax regime on mobile phones.

Committee Observation

The Committee noted IPF's view but resolved to delete the proposal noting the overwhelming responses from the public that the proposal would increase the prices of mobile phones which are considered an essential good.

Clause 36 (a) (ii)

397. Accept the proposal since excise taxes are intended to be levied on luxury goods or products associated with negative externalities and bottled water does not fall within these categories.

Clause 36 (a) (iv)

398. Delete the proposal since the preferential excise duty treatment for licensed small independent brewers is likely to undermine the growth and sustainability of small-scale alcoholic beverage manufacturers, weaken competition within the beverage industry, and disproportionately benefit dominant market players.

Committee Observation

The Committee agreed with the proposal by IPF.

Clause 36 (a) (v) and (xxxiv)

399. Delete the proposal and retain the current provision. It is the view of the stakeholder that the amendment may also increase production costs for the pharmaceutical industry that uses undenatured alcohol as a solvent.

Committee Observation

The Committee partly agreed with IPF on the proposal to delete clause 36(a)(v). It, however, was of a different view regarding clause 36(a)(xxxiv).

Clause 36 (a) (vi)

400. Accept the proposal to increase the excise duty on cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes, since the excise duty collection is administratively straightforward and subject to relatively low leakage.

Clause 36 (a) (vii)

401. Accept the proposal to increase excise duty on tobacco products from Ksh. 11,382.48 per kg to Ksh. 12,550 per kg.

Clause 36 (a) (viii)

402. Accept the proposal to increase excise duty on imported sugar confectionery of tariff heading 17.04, given the growing burden of non-communicable diseases (NCDs).

Committee Observation

The Committee considered the concerns raised by IPF. The Committee however, noted that deleting the word "imported" from the excise duty provisions on sugar confectionery would extend the tax to locally manufactured products, increasing production costs and reducing the competitiveness of local manufacturers against imports from regional free trade areas. The Committee further noted that the proposal could lead to business closures, job losses, and reduced government revenue, while adversely affecting manufacturers that rely on imported raw materials such as refined sugar and liquid glucose, which already attract various import taxes and levies. The Committee therefore recommended deletion of the proposal.

Clause 36 (a) (ix)

403. Accept the proposal to increase excise duty on imported articles of plastic because it introduces a uniform taxation on locally manufactured and imported articles of plastic.

Committee Observation

The Committee noted the concerns of IPF and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to

clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 36 (a) (x)

404. Accept the proposal because the change in the tax base from customs value to excisable value eliminates the inconsistency of using a customs-law valuation concept within an excise duty framework.

Clause 36 (a) (xii)

405. Amend the proposal to include a specific rate component alongside the ad valorem rate to serve as a minimum floor tax payable.

Committee Observation

The Committee noted IPF's proposal to have ad valorem rates together with the specific rates.

Clause 36 (a) (xiv)

406. Delete the proposal since the amendment exposes Kenya to legal challenges by affected Partner States, with the consequent risk of diplomatic friction and reputational damage as a reliable EAC partner.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 36 (a) (xxxv)

407. Accept the proposal that seeks to charge various rate of excise duty on coal; fruit juices; and antique, vintage, and classic vehicles.

Clause 36 (b) (i) and (iii)

408. Accept the proposal since it eliminates opportunities for tax avoidance.

Clause 36 (b) (ii)

409. Accept the proposal since removing the exemption for horse racing expands the tax base for excise duty and introduces equity in the taxation of gambling activities.

Clause 36 (b) (iv)

410. Accept the proposal because the amendment improves legal clarity by reducing the risk of avoidance strategies that may exploit the ambiguity in the current classification.

Clause 36 (c) (i)

411. Accept the proposal since the amendment aims to eliminate opportunities for tax avoidance.

Clause 36 (c) (ii)

412. Accept the proposal since the proposed inclusion of virtual assets and virtual asset service providers aligns with the Virtual Asset Service Providers Act, 2025.

Clause 38

413. Accept the proposal since this amendment is a significant and necessary step towards strengthening the administration and enforcement of taxation within the rapidly growing virtual asset and digital economy space.

Clause 41

414. Accept the proposal since the amendment is a significant step towards strengthening and centralising Kenya's anti-tax avoidance framework within the Tax Procedures Act, thereby enhancing consistency, enforcement efficiency, and legal coherence across different tax laws.

Clause 43

415. Accept the proposal since the extension is justified by the positive outcomes recorded under the previous tax amnesty programme.

Clause 45

416. Delete the proposal as the proposed amendment raises significant constitutional and administrative justice concerns particularly on taxpayer's right to a fair hearing and the principles of natural justice guaranteed under the Constitution of Kenya.

Committee Observation

The Committee agreed with IPF.

Clause 48

417. Accept this proposal because the introduction of prepopulated tax returns is likely to simplify the tax filing process, reduce compliance costs for taxpayers, minimise manual errors, and improve the accuracy and consistency of tax declarations.

Clause 49

418. Delete the proposal because removing this safeguard would mean that all calendar days, including weekends and public holidays, would be counted, effectively reducing the actual working time available to taxpayers within already strict statutory deadlines.

Committee Observation

The Committee agreed with the proposal by IPF.

Clause 50

419. Amend this proposal by applying a more equitable approach through a percentage rate of the taxes due. This would ensure that penalties are proportionate to the taxpayer's economic capacity and the seriousness of the non-compliance.

Committee Observation

The Committee acknowledged the concerns raised by IPF and recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 53 (a)

420. The stakeholder supported the proposal because it aligns with Section 7(7) which allocates 10 percent (10%) of the fund to payment of Kenya's contributions to the African Union and any other international organization to which Kenya has a financial obligation.

Committee Observation

The Committee acknowledged the concerns raised by IPF but noted the need to ensure that the Kenya Revenue Authority is adequately resourced to enhance revenue collection and strengthen tax administration. In view of this, the Committee agreed to delete the proposal.

Clause 53 (b)

421. The stakeholder supported the proposal and urged the Committee to ensure that KRA is adequately resourced to effectively conduct its operations.

Committee Observation

The Committee acknowledged the concerns raised by IPF but noted the need to ensure that the Kenya Revenue Authority is adequately resourced to enhance revenue collection and strengthen tax administration. In view of this, the Committee agreed to delete the proposal.

Clause 54

422. Accept the proposal because it aligns the provision with all fees and levies covered under the Act.

Clause 55 (a) (i) and (b) (i)

423. Delete the proposals since aircraft and aircraft parts are not basic commodities and therefore should not benefit from exemptions.

Committee Observation
The Committee agreed with IPF to delete the proposals.

Clause 55 (a) (ii) and (b) (ii)

424. Accept the proposal because this will streamline the administration of excise duty through regulations as proposed under the Excise Duty.

Committee Observation
The Committee resolved to delete the proposal in the Bill to protect local manufacturing of telephones.

Clause 56

425. Accept the proposal since it enhances the clarity regarding the scope of stamp duty exemptions by addressing the ambiguity that may have limited the practical application of the exemption, particularly in cases involving indirect transfers or trust structures commonly used in real estate transactions.

3.3.12 ALPHA TAX AND BUSINESS ADVISORY SERVICES

Clause 2 (c)

426. Delete the proposal because the provision departs from established international best practice on the tax treatment of software payments by substantially broadening the definition of "royalty" to include virtually all payments relating to software, including proprietary and off-the-shelf software, as well as associated licence, development, training, maintenance, and support fees.

Committee Observation
The Committee accepted the proposal.

Clause 3

427. Amend the proposal to read as follows:

'The gratuity was for a contract of service for a continuous period of at least 3 years or where the employment relationship is continuous in nature for shorter fixed term or renewable contracts.'

Committee Observation
The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion

of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 3 (b) (iii)

428. Delete the proposal because it may discourage employers from offering gratuity schemes and weaken employee retirement preparedness.

Committee Observation

The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 4

429. Delete the proposal because there is no clarity as to whether this tax applies alongside the withholding tax on payments made to non- residents with respect to immovable property.

Committee Observation

The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 16

430. Delete the proposal since the proposal fails to adequately recognize that companies may legitimately retain earnings for capital expenditure, business expansion, debt servicing, regulatory requirements, or working capital needs.

Committee Observation

The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18

431. Delete the proposal because the proposed filing timeline may compel taxpayers to submit returns based on provisional or incomplete financial information, increasing the likelihood of amended returns, disputes, inaccuracies, and inadvertent non-compliance. Further, the one-month timeline for nil returns may similarly prove impractical for dormant or inactive entities that still require internal confirmations and governance approvals before filing. It is the view of the stakeholder that retaining the current six-month framework would therefore better balance revenue administration objectives with practical commercial realities and taxpayer compliance capacity.

Committee Observation

The Committee acknowledged the concerns by Alpha Tax and Business Advisory Services and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23

432. Delete the proposal because there already exists law that provides for the scope of indirect transfers and the inclusion of the new provision only renders the above provisions irrelevant.

Committee Observation

The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework.

The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained.

Clause 28

433. Delete the proposal and retain the existing legislation because this may increase the cost of financing; financial strain on businesses; and Business Closures and Insolvency risks.

Committee Observation

The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity.

The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 29(a)

434. Delete the proposal because it would result in additional direct and indirect compliance costs for small taxpayers who would now be required to acquire and maintain compatible invoicing systems, ensure continuous system connectivity, train personnel, and dedicate resources toward ongoing compliance with the TIMS/eTIMS requirements.

Committee Observation

The Committee agreed with Alpha Tax and Business Advisory Services.

Clause 31(b)(i)

435. Delete the proposal because it will increase the cost of digital financial transactions for fintech operators, merchants and end users, with the potential effect of slowing

innovation, increasing the cost of doing business, and undermining broader financial inclusion objectives.

Committee Observation

The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36 (a) (xi)

436. Delete the proposal as it will impose significant input cost pressures across the manufacturing value chain. Further, it is the view of the stakeholder that plastic packaging materials falling under these tariff headings are widely used as industrial and commercial inputs across multiple sectors, including food and beverage, pharmaceuticals, cosmetics, agriculture, and household consumer goods. Furthermore, subjecting such materials to excise duty substantially increases production and packaging costs, which are ultimately passed on to consumers through higher retail prices.

Committee Observation

The Committee noted the concerns of Alpha Tax and Business Advisory Services and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 36 (a) (xxxv) on fruit juices

437. Delete the proposal seeking to increase the excise duty on fruit juices. It is the view of the stakeholder that the magnitude of the increase is substantial and is likely to have a direct impact on the pricing and competitiveness of juice products within the local market.

Committee Observation

The Committee acknowledged the proposal by Alpha Tax and Business Advisory Services but was of the view that the proposal seeks to isolate sugar-sweetened beverages from other non-alcoholic drinks and increase excise duty from Kes. 14.14 to Kes. 20 per litre to better reflect health risks and improve revenue. Sugar-sweetened beverages are currently

taxed at the same excise rate as other non-alcoholic drinks, regardless of sugar content, meaning the tax structure does not reflect their higher health risks. This uniform and relatively low rate fails to discourage consumption of high-sugar products, contributing to rising cases of obesity and other non-communicable diseases, while also falling short of international best practices that use targeted taxation to influence healthier consumption patterns and support public health objectives.

Clause 42

438. Delete the proposal because the inclusion of the default assessment would bar the tax-payer from being able to provide their explanation, contrary to principles of fair administrative action enshrined in the Constitution.

Committee Observation

The Committee acknowledged the concerns by Alpha Tax and Business Advisory Services but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

439. Delete the proposal because it could result in economic double taxation as the Commissioner will collect the principal tax from both the withholding agent and the recipient, imposing a punitive penalty on the withholding agent for failure to withhold even where the due amount of tax has been received.

Committee Observation

The Committee agreed with Alpha Tax and Business Advisory Services.

Clause 45

440. Delete the proposal because it gives discretionary powers to the Commissioner to issue agency notices even where a taxpayer appeals against a decision of the Tribunal or High Court. This undermines the principles of fairness, transparency, and procedural propriety in tax administration.

Committee Observation

The Committee agreed with Alpha Tax and Business Advisory Services .

Clause 47

441. Amend the proposal to read as follows:

'(a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes and value added tax payable on imports and, and all Tax heads.'

442. The stakeholder noted that allowing taxpayers to offset confirmed tax overpayments against outstanding tax debts and future tax liabilities, including instalment taxes, value-added tax payable on imports and local supplies, and agency taxes, would ease unnecessary cashflow pressures on businesses.

Committee Observation

The Committee noted the proposal by Alpha Tax and Business Advisory Services but was of the view that the proposal does not fall within the ambit of the clause. Further, the Committee noted that the proposal would require time to analyse the impact of the proposal on revenue collection.

Clause 48

443. Delete the proposal in its entirety because of the significant practical and operational gaps that remain within the existing tax data ecosystem.

Committee Observation

The Committee acknowledged the concerns raised by Alpha Tax and Business Advisory Services but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 49

444. Delete the proposal because this compressed timeline may unduly pressure taxpayers, especially smaller businesses or individuals with limited resources, to respond hastily, potentially compromising the quality or completeness of their submissions.

Committee Observation

The Committee agreed with the proposal.

NEW PROPOSAL

Excise Duty Act, Section 14

445. Amend the Section by inserting a provision providing relief for packaging materials as well as raw materials used in the manufacture of excisable goods. It is the view of the stakeholder that including packaging within the relief framework aligns with the principle of consumption taxes and it keeps Kenya's excise regime competitive and aligned with global trade and manufacturing norms.

Committee Observation

The Committee noted that the proposal expands the scope of excise duty offsets beyond raw materials used in the manufacture of excisable goods to include packaging materials and other ancillary inputs, contrary to the principle that packaging materials are not raw materials and do not form part of the manufactured product itself. Allowing offsets on packaging and similar inputs would significantly broaden the relief beyond its original policy intent, create administrative challenges in determining eligible inputs, and result in substantial revenue losses. The existing provision appropriately targets excisable inputs directly used in production while preserving the integrity of the excise duty regime and safeguarding government revenue. As such, the proposal was not supported.

VAT Act, Section 13(5)

446. Amend the Section by inserting a new proviso to read as follows:

'5A. (1) Subject to subsection 5, where a supplier provides labour, outsourcing or employee placement services and incurs employee-related costs, such costs shall be deemed to be disbursements made by the supplier on behalf of the client.

(2) For the purpose of this section, "employee related costs" includes salaries, wages, statutory deductions and such other related costs.'

447. It is the view of the stakeholder that subjecting salaries to VAT creates a structural distortion of double taxation, as employment income is already hit with PAYE and statutory deductions.

Committee Observation

The Committee noted that while international VAT systems may exclude genuine third-party disbursements from the taxable value of a supply, such treatment generally applies only where the supplier acts strictly as an agent and incurs expenses in the name and on behalf of the client. In most outsourcing and employer-of-record arrangements, the outsourcing firm remains the legal employer, bears employment obligations and risks, and supplies a bundled labour service, making employee-related costs an integral component of the consideration for that service rather than a pure disbursement. Introducing a blanket exclusion would create significant boundary and enforcement challenges, encourage restructuring of service

contracts to minimise VAT, depart from the destination and neutrality principles underpinning VAT, and result in substantial revenue leakage without clear safeguards to distinguish genuine agency arrangements from taxable labour supply services. As such, the proposal was not supported.

3.3.13 ERNEST & ASSOCIATES LLP

Clause 1

448. The stakeholder proposed the review of the commencement dates of the Bill.

Committee Observation

The Committee noted the concerns of Ernest and Associates LLP and recommended amendment to Clause 1 to clarify the effective dates for all the provisions in the Bill.

Clause 2 (b)

449. Amend by replacing the word '*card*' with the words '*debit or credit card*'.

Committee Observation

The Committee noted the concerns raised by Ernest and Associates LLP but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

450. In the definition of 'royalties', delete the word 'regularly' and replace it with 'periodic' as the term regularly is vague and will create confusion.

Committee Observation

The Committee deleted the provision.

Clause 2(e)

451. Amend the definition of winnings by inserting the words *'resulting in that win*' after the word '*wagered*'.

Committee Observation

The Committee noted the concerns raised by Ernest and Associates LLP. However, it observed that the proposed amendment and resolved to harmonize taxation on betting.

Clause 3 (b)

452. Amend the proposed new paragraph (ga) by deleting the words '*contribution to a*' and replacing them with '*payments as'*.

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 4 (3)

453. Delete the clause and replace it as follows:

(3) subsection (2) shall not apply where all the income accrued in or derived from the use or occupation of the property received by a non-resident person or on behalf of the non-resident person was subjected to a deduction of tax as specified in section 35(1)(c)

The stakeholder cited that this would ensure Section 35(1)(j) is applied instead of Section 35(1)(c).

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 8 (2)

454. Delete the Clause and replace it as follows:

'Tax withheld under paragraph 5 of the Third Schedule on dividends or interest forming part of the income of a trustee, executor, or administrator shall be a final tax.'

Committee Observation
The Committee agreed with the proposal by Ernest and Associates LLP.

Clause 18
455. Delete the proposal.

Committee Observation
The Committee acknowledged the concerns by Ernest and Associates LLP and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19
456. Delete the proposal.

Committee Observation
The Committee acknowledged the concerns by Ernest and Associates LLP and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22 (a)
457. Delete the proposal and replace it by inserting the following proviso in Paragraph 2 (i)
'Provided that this paragraph shall cease to have effect on 31 December 2030' so that it reads as follows:
The corporate rate of tax shall be for the case of a resident company for the year of income 1974 and each subsequent year of income up to and including the year of income 1990 - (Rate in each twenty shillings- 9%)
Provided that this paragraph shall cease to have effect on 31 December 2030.

458. The stakeholder submitted that this proposed change is inconsistent with foundational principles of administrative and fiscal governance, particularly legitimate expectation, non-retroactivity, and investment protection.

Committee Observation

The Committee noted that the proposal by Ernest & Associates LLP does not fall within the ambit of the provision.

Clause 22(c)

459. Amend Paragraph (q) and (r) to read as follows:

(q) in respect of the sale of scrap metal, one and a half per cent of the gross amount '*which is a final tax*'.

(r) in respect of winnings, twenty per cent '*which is a final tax.*'

Committee Observation

The Committee noted the proposal by Ernest and Associates LLP and resolved to harmonize taxation on betting.

Clause 23(d)

460. Delete Paragraph 23(d) and replace it as follows:

'Gains derived or realised by a non-resident person from the disposal, transfer, or alienation of shares held in an entity outside Kenya where— (a) the shares derive, in whole or in part, their value from Kenya; (b) the disposal, transfer, or alienation of the shares results in a change in the beneficial ownership or ownership structure of a company resident in Kenya; or (c) the disposal, transfer, or alienation results in a change in the ownership, title, or interest in property situated in Kenya'.

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for amendment and recommended that the clause be retained.

Clause 27

461. Delete the proposal and replace it as follows:-

17A (1) Where taxable goods acquired by a registered person become exempt, and the person had previously deducted input tax on those goods which remain unsold on the date they became exempt, the person shall account for an amount equal to the input tax attributable to the unsold goods in the tax return for that period in which the goods became exempt.

(2) The person shall account for the input tax under subsection (1) using the same method that was applied when the input tax was originally deducted in respect of supplies made before the date on which the goods became exempt

(3) Where the adjustment under subsection (1) results in the tax account reflecting the totals of output tax and input tax for the period, including the input tax attributable to the unsold goods, and a net amount of tax payable, the person shall be liable to pay the resulting tax to the Commissioner.

(4) Where goods for which input tax was previously clawed back under subsection (1) subsequently become taxable supplies, the registered person may on the date those supplies become taxable, claim relief for any tax paid under this section in accordance with section 18, mutatis mutandis.

Provided that: This subsection shall apply only where the period between the date the goods became exempt and the date, they become taxable does not exceed twenty-four months.

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies.

The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 29(2)

462. Delete the proposal and replace it as follows: -

'An invoice showing an amount purporting to be tax may only be issued in respect of a taxable supply and only by a registered person.'

Committee Observation

The Committee noted the proposal by Ernest and Associates LLP, but was of the view that, as drafted, the provision was sufficient.

Clause 31(a)(ix)

463. Delete the proposed paragraph 163 and replace it as follows:

'The supply of telephones for cellular and other wireless networks that are locally assembled (with at least fifty per cent local content) or manufactured'

Committee Observation

The Committee noted the stakeholder's proposal but recommended deletion of paragraph 163.

Clause 31(b)(i)

464. Delete item (ii), that states:

(ii)money transfers, payment processing, settlement, merchants acquiring, gateway or aggregation services, supplied over a software or platform for a fee or commission by a payment service provider.

465. The stakeholder submitted that the proposal in the Bill presented statutory inconsistency, administrative impossibility, regulatory overlap, and increased cost of business.

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31(b)(ii)

466. *Delete the definition for 'in-house supplies' and replacing it as follows:*

'In-house supplies' means supplies created by a tour operator using its own facilities, staff, or assets, or supplies acquired from third parties that have been materially changed in form, content, or character such that the final supply constitutes a substantially different product. Provided that 'in-house supplies', whether bundled or unbundled, do not include—

guided tours and excursions;

tour-guide and interpreter services;

travel-itinerary preparation and logistics management;

the sale of travel products on behalf of airlines, hotels, or other operators.

467. The stakeholder submitted that the proposal in the Bill, despite the proposed definitions, the amendment does not expressly clarify whether the listed services, where provided by the tour operator from its own resources, fall within the scope of the exemption.

Committee Observation

The committee noted the concerns raised by Ernest and Associates LLP and observed that the provision in the Bill is sufficient.

Clause 41

468. In the proposed new Section 18A (1)(b), replace 'a person' with 'the person'.

469. Delete the proposed new Section 18(1)(c) and replace it with: -

'the scheme was entered into with the sole or dominant purpose of obtaining a tax benefit'

470. The stakeholder proposed that the proviso provided after the proposed Section 18A (1)(c) be deleted and replaced with: -

'the Commissioner may make such adjustments, in an assessment, as are necessary to counteract the tax benefit obtained or that would otherwise have been obtained.'

471. That the following proviso be included in the proposed new Section 18A Subsection (3)

'Provided that the Commissioner shall furnish the taxpayer with any information obtained under this section in accordance with Article 35(1)(a) of the Constitution of Kenya.'

472. That the proposed Section 18A subsection (5) be amended by deleting the definition of 'Tax benefit' and replacing it with the following; -

'*Tax benefit' means any reduction, avoidance, or deferral of tax, an increase in or entitlement to a deduction or refund, or any other advantage arising under a tax law.'*

Committee Observation

The Committee acknowledged concerns by Ernest and Associates LLP but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

473. Delete the Clause as it is a duplication of the proposed Clause 41, Section 29 and 31 of the Tax Procedures Act.

Committee Observation

The Committee acknowledged concerns by Ernest and Associates LLP but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

474. Delete the proposal as it presents refund problems.

Committee Observation

The Committee agreed with Ernest and Associates LLP.

Clause 47

475. Delete the proposal as it would limit the use of VAT on imports to offset against refunds.

Committee Observation

The Committee agreed with Ernest and Associates LLP.

Clause 48(4)

476. Amend by inserting a proviso to subsection (4) to read as follows: -

'For the avoidance of doubt, a taxpayer may disregard any information pre populated in a return and may disregard or delete such information where it is erroneous, not reflective of the taxpayer's business model, or inconsistent with accounting principles set out in general accounting standards as modified by any applicable tax law, including sections 3, 15 and 16 of the Income Tax Act and sections 12 and 17 of the Value Added Tax Act. The taxpayer's own books and records shall prevail over pre-populated information for purposes of self-assessment, and no adverse inference or penalty shall arise solely on account of the deletion of such information'

477. Ernest & Associates proposed that this would comply with Section 2(2) of the Tax Procedures Act.

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's

determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 49

478. Delete the proposal.

Committee Observation

The Committee agreed with Ernest and Associates LLP.

Clause 50

479. Delete the proposed Section 86(3) and replace it with the following: -

(3) "Where the Commissioner determines that the reasons provided under subsection (2) are not reasonable, the taxpayer shall be liable to pay a penalty of— (a) one thousand shillings; or (b) in the case of an individual, one hundred shillings.

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 51(b)

480. Delete the proposed Section 89(5B) and replace it as follows: -

'(5B) Notwithstanding subsection (5A), the Commissioner may waive the whole or any part of a penalty or interest imposed under this Act on account of the factors listed in subsection (5A), provided that the amount of the penalty or interest does not exceed Shillings five million.'

Committee Observation

The Committee acknowledged the concerns raised by Ernest and Associates LLP but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

New Proposal – Income Tax Act

Section 2

481. Insert the following new definition in proper alphabetical order;

'Lease' means a contract under which a person owning, or otherwise entitled to the use of, a tangible asset or equipment—other than land or buildings—grants to a lessee the right to possess, use or enjoy that asset for a specified period in exchange for periodic payments."

482. The stakeholder submitted that this will form the foundational definition for section 6(2) and leases will deal with tangible items and royalties to deal with intangible items.

Committee Observation
The Committee noted that there was no need to define the term since royalties may also refer to tangible assets.

Section 6
483. Delete Section 6 and replace it as follows:
6. Income from the use of property
For the purposes of section 3(2)(a)(iii) of this Act, 'gains or profits' means (a) rent, premium, or any similar consideration received for the use or occupation of immovable property, excluding a mining right, an interest in a petroleum agreement, mining information, or petroleum information. (b) a payment made for, or attributable to, a royalty or (c) payments received by a lessor under a lease or any similar arrangement, as determined in accordance with the rules prescribed under this Act.
Committee Observation
The Committee noted that the change of this definition would change the structural nature of the ITA with significant revenue implications. As such, the proposal was not supported.

Section 25
484. Repeal Section 25 so as to align with the proposed Section 11amendment in Clause 8 of the Bill.
Committee Observation
The Committee noted that the two provisions are distinct.

Section 26
485. Repeal Section 26 so as to align with the proposed Section 11amendment in Clause 8 of the Bill.

Committee Observation
The Committee noted that the two provisions are distinct.

First Schedule
486. Amend Paragraph 10 by inserting the words 'or human rights and fundamental freedoms, or the protection of the environment or any other purpose beneficial to

the general public' after the words 'relief of the poverty or distress of the public, or for the advancement of religion or education'

487. The stakeholder submitted that this would be in line with The Trustees Perpetual Succession Act Section 3B that states:

3B. Charitable trusts

(1)A charitable trust is a trust formed for the exclusive purpose of the relief of poverty, the advancement of education, religion or human rights and fundamental freedoms, or the protection of the environment or any other purpose beneficial to the general public.

Committee Observation

The Committee noted that the proposal would expand the range of exemption leading to revenue loss.

Third Schedule

488. Amend Head B of the Third Schedule to review the personal income tax bands as follows:

Bands (Kshs)	Rate
On the first 288,000	10%
On the next 288,000	15%
On the next 288,000	20%
On the next 288,000	25%
On the next 288,000	30%
On the next 3,600,000	32.5%
On all income over 9,600,000	35%

489. The stakeholder submitted that the proposal would align to Kenya's economic indicators.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

New Proposals - Value Added Tax Act

Section 5(2)

490. Delete Section 5(2)(a) and 5(2)(b) and replace the two as follows:

'(2)(a) Notwithstanding the provisions of sub-section (2), the rate of tax for the following items shall be eight percent of the taxable value-
(a) Motor Spirit (gasoline) premium of tariff number 2710.12.20;
(b) Illuminating 2710.19.22; and Kerosene of tariff number
(c) Gas Oil (automotive, light, amber for high-speed engines) of tariff number 2710.19.31.
(2)(b) The provisions of subsection (2A) shall be in effect for a period of ninety (90) days from the date of coming into effect of this Act
Provided that the Cabinet Secretary may by notice in the Gazette, extend the period under this subsection for a further ninety (90) days.'

Committee Observation
The Committee noted that the current deduction of VAT was occasioned by unprecedented change in oil prices and there is no indication that the prices will remain high in the foreseeable future to necessitate the amendment.

New Proposal – Excise Duty Act
Section 2

491. The stakeholder proposed that the definition of 'import' be amended by adding the following proviso-

'Provided that where the goods originate from an East African Community Partner State and meet the East African Community Rules of Origin, the goods shall not be considered an import;'

Committee Observation
The Committee noted the stakeholder's submission.

Clause 39

492. Delete the proposed subsection (10) and replace it with the following: -

'Where the Commissioner is satisfied that an applicant referred to in Section 9 is liable to tax under any tax law, or has to undertake a transaction for which a PIN is required, or is required to be registered under any tax law or any other law in Kenya, the Commissioner shall register the person and reinstate the original PIN previously issued to that person prior to deregistration.'

Committee Observation
The Committee noted that the provision was necessary for ease of doing business.

New Proposals – Tax Procedures Act
Section 89(2)

493. Amend Section 89(2) of the TPA to replace the words '*shall determine which penalty applies*' with; '*shall impose least severe penalty*'. The provision shall then read:

(2) If the same act or omission imposes more than one penalty under a tax law on a taxpayer, the Commissioner shall impose the least severe penalty.

Committee Observation

The Committee noted that the proposal is not consistent with drafting style in Kenya.

Section 89

494. Section ***89A — Graduated Waiver of Tax Penalties or interest***

1. A taxpayer may apply to the Commissioner for waiver or reduction of penalties or interest imposed under this Act. The application shall be considered in accordance with the graduated scale set out in subsection (2), subject to the taxpayer demonstrating compliance with the conditions prescribed in this section.

2. The Commissioner may grant a waiver or reduction of penalties or interest as follows—

(a) 100 per cent waiver, where the taxpayer demonstrates reasonable cause for the default, including but not limited to illness, natural disaster, system failure, or other circumstances beyond the taxpayer's control, and where no wilful neglect or deliberate non-compliance is established;

(b) 75 per cent waiver, where the taxpayer voluntarily discloses and pays the outstanding tax within thirty days after the due date and prior to the commencement of any enforcement action by the Commissioner;

(c) 50 per cent waiver, where the taxpayer voluntarily discloses and pays the outstanding tax within ninety days after the due date, or within thirty days after receiving a compliance notice issued under this Act;

(d) 25 per cent waiver, where the taxpayer discloses and pays the outstanding tax after the issuance of an audit notice or enforcement notice but before the conclusion of audit, investigation, or enforcement proceedings;

(e) 0 per cent waiver, where the Commissioner determines that the non-compliance arose from fraud, deliberate tax evasion, gross negligence, or repeated default.

3. The Commissioner may, having regard to the taxpayer's prior compliance record, adjust the applicable waiver percentage upward or downward by up to ten per cent.

4. Where a taxpayer demonstrates financial hardship and provides evidence of inability to pay, the Commissioner may grant an additional waiver of up to twenty-five per cent of the penalties, provided that the taxpayer enters into and complies with an agreed payment plan for the outstanding principal tax.

5. The Commissioner shall maintain a register of all waivers granted under this section and publish, in anonymised form, an annual report summarising the number, categories, and aggregate value of waivers granted under this section. The publication under subsection (2) shall not disclose the identity of any taxpayer.

495. Ernest & Associates LLP submitted that this would create fairness, administrative clarity, trust building, and compliance incentives.

Committee Observation

The Committee noted that waivers should be on a need basis and should not be permanent.

3.3.14 CLIFFE DECKER HOFMEYR

Clause 2 (b)

496. Delete the proposal for the inclusion of interchange fees and merchant services fees as part of management fees is likely to increase the tax burden on banks due to the withholding tax obligations that arise. Further, subjecting interchange fees and merchant services fees to withholding tax risks increasing the cost of cashless transactions, with the additional cost likely to be passed on to consumers, hence making access to financial services expensive. The proposed amendment seeks to alter the tax treatment of amounts that have already been the subject of judicial determination by the Supreme Court in Absa Bank Kenya PLC v Commissioner of Domestic Taxes. Legislatively reversing judicial decisions each time the KRA is unsuccessful in litigation fundamentally undermines the integrity, certainty, and predictability of Kenya's tax system and risks eroding public confidence in the rule of law.

Committee Observation

The Committee noted the concerns raised by the stakeholder but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation and cost were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

497. Delete the proposal in the Bill; the proposed amendment should be dropped since it is likely to increase the tax burden for institutions, including banks running digital payment networks and card schemes, since those institutions will be required to pay withholding tax on royalty payments at a rate of 20% for non-residents and 5% for residents.

498. Further, the expanded definition of royalty may increase the cost of payments made to both resident and non-resident service providers in cross-border arrangements involving digital platforms and software distribution. The expanded definition of royalty is likely to increase the cost of cross-border arrangements involving digital platforms, software licensing, and payment infrastructure. These additional costs are likely to be embedded in pricing structures and ultimately passed on to consumers, thereby increasing the cost of digital financial services and electronic transactions.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 13

499. Provide clarity on the proposal. As currently framed, the threshold of "sufficient ownership interest" is not defined in the Bill or cross-referenced to an established benchmark (such as control, majority shareholding, or consolidation thresholds under recognised accounting standards). This introduces interpretational ambiguity, as the concept of "sufficient" is inherently subjective and may vary depending on factual circumstances, accounting treatment, or jurisdictional practice. This creates uncertainty as to the level of ownership or control required and may give rise to interpretational challenges in determining the ultimate parent entity, particularly in complex group structures.

Committee Observation

The Committee noted the proposal; however, it needs further research and consultation prior to its implementation.

Clause 16

500. Delete the proposal because it may significantly limit a company's ability to reinvest retained earnings into its operations. This approach is particularly problematic for private companies, which typically retain profits for reinvestment. capital expansion, or debt servicing, rather than routine shareholder distributions. Imposing a deemed distribution rule disregards commercial reality.

Committee Observation

The Committee acknowledged the concerns raised by Cliffe Decker Hofmeyr and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of

this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18

501. Delete the proposal in the Bill for the preparation of accurate tax returns is inherently dependent on the finalization of audited financial statements, reconciliation of cross-border transactions and completion of year-end closing processes, all of which typically extend beyond the proposed shortened timelines. Additionally, this deadline compresses multiple statutory obligations into the fourth month following year-end, including VAT return filings, instalments tax declarations, payment of the balance of tax, and income tax return submissions, which further increases the regulatory burden to meet the statutory deadlines.

Committee Observation

The Committee acknowledged the concerns by Cliffe Decker Hofmeyr and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23(b)

502. Delete the clause for the proposed removal of the 20% threshold significantly broadens the scope of taxation beyond what may be considered proportionate or aligned with economic substance. As a result, CGT may now apply to disposals involving even minimal shareholdings, rather than substantive economic interest. The amendment may complicate investment and exit decisions, particularly for minority investors, as more transactions fall within the CGT net. It may also create a lock-in effect, with investors delaying or restructuring disposals to manage tax exposure.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the broad drafting is intentional and necessary to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance

concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained as contained in the Bill.

Clause 27

503. Delete the proposal; the proposed clause introduces immediate cash flow implications for affected businesses, particularly those holding significant inventory at the transition date. The provision may also give rise to practical challenges around the identification and attribution of input VAT to unsold stock, especially in cases involving fungible goods or work in progress.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not disturb input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained as contained in the Bill.

Clause 28

504. Delete the proposed amendment, for it will delay the taxpayers' ability to recover VAT on unpaid invoices, therefore creating a cash flow strain on suppliers.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In view of this, the Committee did not

support the proposals for deletion or amendment and recommended retention of the clause as contained in the Bill.

Clause 31 (a) (iv)

505. Delete the Clause: This proposal could increase the cost of establishing tourism and recreational facilities in Kenya. Given that tourism is a key foreign exchange earner, the imposition of 16% VAT may make investment in the sector less commercially viable and potentially deter future tourism-related investment. If the proposal to delete is not acceptable, we propose a sunset of five years to allow ongoing projects that are enjoying the preferential rate to be completed.

Committee Observation

The Committee noted that this provision is meant to reduce tax expenditure under the VAT. As such, the proposal was not supported.

Clause 31 (a) (vii)

506. Retain the current status. The exemption was introduced as a deliberate fiscal measure to support the Government's Affordable Housing Programme, a key pillar of the national development agenda aimed at addressing the housing deficit and improving access to decent, affordable shelter for low- and middle-income households. By exempting inputs used in the construction of approved affordable housing projects, the policy sought to lower development costs, attract private sector participation, and ultimately ensure affordability for end-users.

Clause 31 (b)(i)

507. Delete the proposal in the Bill for the exclusion of the digital payment services from exempt VAT status, which subjects them to 16% VAT. This proposal will increase the VAT payable by banks and other financial institutions, consequently increasing the tax burden. Further, the proposal may be perceived as a legislative attempt to override or circumvent the effect of recent court decisions in Pesapal/ *Limited* vs *Commissioner of Domestic Taxes, 2025 eKLR* and Commissioner *of Domestic Taxes v Bank of Africa Limited, 2023 eKLR,* which held that merchant payments and electronic financial services are exempt from VAT.

Committee Observation

The Committee acknowledged the concerns raised by Cliffe Decker Hofmeyr and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to

ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31 (a) (ix) 160

508. Retain the current status under Section 10(2) (b) of the VAT Act, persons who make zero-rated supplies are entitled to claim VAT input. Therefore, changing the VAT status of raw materials for the manufacture of animal feeds from zero-rated to exempt means that their manufacturers and importers will not be able to claim input VAT and will consequently pass down the costs to the farmers. This will consequently increase the cost of agriculture, including livestock and food production.

Clause 31(a) (ix) 161

509. Delete the proposal in the Bill for If this proposal is enacted, the cost of locally manufacturing pharmaceutical products will likely increase and raise the cost of healthcare. This is because manufacturers would no longer be able to claim input VAT if the current zero-rated status is changed to exempt status.

Committee Observation

The Committee agreed with this proposal.

Clause 36(a)(xxxv) on vintage vehicles

510. Amend this clause to subject antique vehicles to excise duty within the 20-25% range applied to other vehicles, rather than the proposed 50% rate. This proposal subjects antique vehicles to excise duty at a rate of 50% of the excisable value, which is relatively high compared to other vehicles, which range between 20% and 35% depending on engine capacity.

Committee Observation

The Committee acknowledged the stakeholder's proposal but noted that reducing the proposed excise rate would lead to revenue loss hence retention of the clause.

Clause 34

511. There will be a need to provide in the regulations to address the following gaps: the definition of activation; the taxable person responsible for remittance, particularly whether liability rests with telecom operators or distributors. This proposal may introduce compliance complexities, particularly in tracking activation events and determining the taxable person responsible for remittance. Additionally, the activation-based taxation model will require data integration between the Kenya Revenue Authority (KRA) and telecommunications operators. This further creates operational challenges since telecommunication agencies would be required to identify device activations, match them to taxable devices, and inform the KRA which, in the

absence of proper regulations and a clear definition of activation, creates operational challenges.

Committee Observation

The Committee acknowledged the concerns raised by Cliffe Decker Hofmeyr and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 36 (a) (i)

512. Delete the proposal because the increase will lead to a potential increase in the costs for consumers. This is because the tax base will shift since excisable value also includes customs value and import duty.

Committee Observation

The Committee agreed with Cliffe Decker Hofmeyr.

Clause 36 (a) (x)

513. Delete the proposal, as it is likely to increase the costs of commercial and residential construction since an increase in excise duty on sanitary fixtures is likely to increase construction costs. The proposal also goes against the government's affordable housing agenda, considering that local manufacturing levels may not satisfy the demand for the affected items.

Committee Observation

The Committee noted the concern however, this proposal would lead to revenue loss hence the Committee did not support it.

Clause 38

514. Providing regulations for the introduction of timelines will ensure certainty in the filing of returns. This should be aligned with international standards, including OECD's Crypto Asset Reporting Framework (CARF), which outlines the criteria under which a virtual asset service provider should confirm to the due diligence and requirements of the jurisdiction it operates in.

Committee Observation

The Committee noted that comprehensive regulations relating to virtual assets were currently under review.

Clause 41

515. Define the term "scheme" and "tax benefit." The broad definitions of "scheme" and "tax benefit" significantly expand the provision's scope by capturing a wide range of arrangements, including implied transactions and both tax reduction and deferral. This may create uncertainty for taxpayers, as legitimate tax planning such as group structuring, financing, and timing arrangements could be treated as avoidance, thus blurring the line between acceptable planning and impermissible avoidance and increasing reliance on the Commissioner's discretion.

Committee Observation

The Committee noted the provision as drafted in the Bill is sufficient to provide meaning of the terms.

Clause 44

516. Delete the clause as the proposed amendment may result in double taxation in instances where the KRA charges withholding tax on the payor while the payee has already accounted for the full tax on the same income.

Committee Observation

The Committee agreed with this proposal.

Clause 45

517. Delete the proposal. The proposed deletion removes an important safeguard that previously restricted the Commissioner from issuing an agency notice where a taxpayer had appealed an assessment. Its removal would allow the Commissioner to proceed with enforcement action to recover tax from third parties even while an appeal is still pending. This may weaken taxpayer protections by enabling enforcement before the appellate process is concluded. Further, the proposed amendment conflicts with the principles of procedural fairness and the constitutional right to a fair hearing under Article 47 and 50 of the Constitution of Kenya. This is because allowing enforcement action to proceed before the appellate process is concluded may effectively pre-empt the outcome of the appeal and result in financial prejudice to the taxpayer.

Committee Observation

The Committee agreed with the proposal by Cliffe Decker Hofmeyr.

Clause 47

518. Revert to the December 2024 position for taxpayers, particularly export-oriented businesses whose supplies are zero-rated, to efficiently recover input VAT, as they will

be required to rely on the refund mechanism rather than offsets. This is because prior to December 2024, taxpayers were permitted to offset overpaid tax against outstanding tax debts and future tax liabilities. This was limited in December 2024 to include instalment taxes and input VAT, and was subsequently amended in the Finance Act, 2025 to replace input VAT with VAT on imports. The current proposal now removes VAT on imports, effectively narrowing the scope of offsets against instalment taxes. Reverting to the December 2024 position allows the offset of overpaid tax against outstanding tax debts and future tax liabilities, including instalment taxes and input VAT, as this provides greater flexibility and supports business cash flow without undermining revenue collection. Further, frequent changes to the VAT offset regime create uncertainty for businesses and taxpayers.

Committee Observation
The Committee agreed with the proposal by Cliffe Decker Hofmeyr.

Clause 49

519. Delete the proposed amendment, for it may unfairly prejudice taxpayers by effectively shortening the time available for lodging objections and appeals where the applicable timelines fall during weekends or public holidays. In practice, this may limit taxpayers' ability to adequately prepare and submit objections or appeal documents. Removing this safeguard may disproportionately affect taxpayers during festive periods and extended public holidays, potentially resulting in unintentional non-compliance and denial of access to dispute resolution mechanisms on purely procedural grounds.

Committee Observation
The Committee agreed with the proposal by Cliffe Decker Hofmeyr

Clause 51 (b)

520. Amend the clause to remove the monetary cap of KES 2 million, with safeguards such as reporting the waiver to Parliament and auditing by the Auditor General. The introduction of a KES 2 million monetary cap may limit relief in cases where system errors result in higher liabilities. Further, the KES 2 million cap is insufficient for medium and large enterprises. In such instances, taxpayers may remain exposed to penalties or interest despite the fault arising from the tax system, with no clear recourse provided for amounts exceeding the threshold. Further, the proposed amendment does not provide a clear recourse mechanism for taxpayers affected by system-generated penalties and interest exceeding KES 2 million.

Committee Observation
The Committee acknowledged the concerns raised by Cliffe Decker Hofmeyr but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

New proposals

521. The Bill does not incorporate the employment-related measures that had earlier been proposed by the Government. These measures provide full PAYE exemption for employees to KES 30,000 per month, a reduction of the PAYE rate from 30% to 25% for income between KES 30,000 and KES 50,000, and an increase in the monthly personal relief from KES 2,400 to KES 3,000.

522. Since the major revision of the Personal Income Tax (PAYE) structure in the Finance Act, 2023, Kenya has experienced significant year-on-year growth in nominal wages and concomitant in statutory deductions, including revised social Security (NSSF) contribution bands, the introduction and expansion of the Social Health Insurance Fund (SHIF), and the Affordable Housing Levy (AHL).These changes, together with the static nature of the current PAYE bands, have resulted in a substantial reduction in net take-home pay and placed sustained pressure on middle- and lower-income employees. The cumulative effect of static bands alongside Increased statutory contributions has eroded real wages, diminishing disposable income and weakening consumer spending power. This phenomenon extends beyond employee welfare and has macroeconomic implications in terms of educed aggregate demand and potential dampening of economic growth.

523. In the light of the objective of enhancing disposable income and easing the tax burden on low and middle-income earners, we recommend that the Parliamentary Committee considers revising the PAYE brands as follows:

Monthly Taxable Income Band (KES)	**Proposed Rate**
On the first KES 30,000	10%
On the next KES 20,000	15%
On the next KES 50,000	20%
On the next KES 300,000	25%
On any amount exceeding KES 500,000	30%

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of Cliffe Decker Hofmeyr.

NEW PROPOSALS

Paragraph 72 of the Eighth Schedule of the ITA - Provisions relating to exemptions from Capital Gains Tax (CGT) on the transfer of property within a Special Economic Zone (SEZ).

524. Before the Finance Act, 2025, the prevailing interpretation and drafting allowed any person, not just licensed SEZ developers, operators, or enterprises, to benefit from the CGT exemption on the transfer of property within an SEZ. The Finance Act, 2025, introduced restrictive language limiting the exemption solely to licensed entities. As a result, strategic investors, financiers, and early-stage developers who facilitate SEZ growth but do not hold a specific SEZ license are now subject to CGT. This change creates unexpected tax liabilities and undermines planning certainty for investors who previously relied on the broader exemption. The proposal is to repeal of the restrictive language in paragraph 72 of the Eighth Schedule and restore the original provision. The current provision reads: "Gains on transfer of property within a Special Economic Zone by a licensed Special Economic Zone developer, enterprise or operator."

525. Therefore, amend by deleting the words: "*by a licensed Special Economic Zone developer, enterprise or operator*" and substituting therefor: "*by any person*",

Committee Observation

The Committee note that the Bill does not amend the Special Economic Zone Act.

New proposal

526. Amend Paragraph 8 of the First Schedule implied Taxation of Income of the National Government under the ITA to extend the existing exemption to include the income of the National Government of Kenya. The amendment may be framed as follows: "The income of any county government or the National Government."

Committee Observation

The Committee noted that the amendment is superfluous.

Restriction on retention of surplus funds and its impact on endowment

527. Amend Income Tax (Donations and Charitable Organizations' Exemption) Rules, 2024 to remove the 15% cap on retention of surplus funds, particularly where such funds are designated for reserves or endowment purposes. In the alternative, exclude from the definition of " surplus funds " amounts formally designated or restricted for endowment, reserve, or capital preservation purposes, provided such designation is supported by proper governance documentation and financial disclosures.

Committee Observation
The Committee noted that Regulations cannot be amended in the Bill.

3.3.15 ORARO AND COMPANY ADVOCATES

Clause 2(b)

528. Delete the proposal because it appears to constitute a legislative response to the Supreme Court's decision and, as framed, represents an overreach that warrants the deletion. Furthermore, the administration of withholding tax on merchant service fees presents significant operational challenges and thus imposing withholding tax obligations on these payments would require substantial re-engineering of payment infrastructure creating compliance burdens disproportionate to any revenue gain.

Committee Observation
The Committee noted the concerns raised by Oraro & Co. Advocates but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation and cost were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)(a)

529. Delete the proposal. Alternatively, amend by deleting paragraph (vii) as it is impermissibly vague and ambiguous. In its current form, the definition of royalties in (a)(vii) appears to characterise virtually all forms of electronic or system mediated payments as royalties, save for cash transactions where no technology is involved. Such an expansive interpretation lacks the requisite precision expected of tax legislation and exposes businesses to unpredictable and potentially multiple layers of taxation.

Committee Observation
The Committee noted that the provision relates to proprietary rights which gives rise to royalties. As such, the proposal was not supported.

Clause 3

530. Delete the proposal or amend to delete the proviso on three (3) years continuous service limit because gratuity payment exemption should not be pegged on a three (3) year limit of employment.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholders but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 19

531. Delete the proposal because the proposed reduction in return-filing timelines does not generate any measurable improvement in revenue collection. Instead, it imposes a disproportionate compliance burden on businesses with complex operational structures such as enterprises engaged in government contracting, import operations, multi-head VAT reconciliation and intricate procurement arrangements. Other reform efforts on compliance quality that ensure the returns filed are accurate and complete rather than on compression of filing windows that add complexity without commensurate benefit could be considered.

Committee Observation

The Committee acknowledged Oraro & Co. Advocates concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns, while retaining the proposal in principle as contained in the Bill.

Clause 27

532. Delete the proposal because it creates an unjust retrospective effect on VAT positions validly established under the law in force at the time of supply. Alternatively, amend the proposal to include a transitional provision specifying that the input VAT adjustment obligation applies only to goods that remain unsold for a period exceeding three (3) months from the date the reclassification takes legal effect to afford businesses a reasonable opportunity to manage their stock positions.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not disturb input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained as contained in the Bill.

Clause 28

533. Delete the proposal and retain the existing minimum qualifying period for VAT relief on irrecoverable debts at two years because the current two-year period strikes the appropriate balance between allowing sufficient time to confirm recoverability whilst providing timely relief. Furthermore, from a cash-flow perspective, a three-year deferral of VAT relief significantly increases working capital costs, particularly for businesses whose customers are predominantly public entities thereby raising the cost of doing business and, in the most severe cases, threatening the financial viability of suppliers to Government.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the clause as contained in the Bill.

Clause 31(a)(ii)(A)

534. Delete the proposal because it would have negative consequences with respect to operational costs of official aid-funded projects resulting in project completion delays.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment addresses enforcement gaps arising from the absence of an explicit legal provision, which has allowed inclusion of items such as vehicle spare parts in VAT-exempt Official Aid-Funded Projects, creating risks of abuse and revenue leakage. The Committee further noted that the measure aligns with the National Tax Policy on rationalisation of tax expenditures.

Clause 31(b)(i)(b)(ii)

535. Delete the proposal because, as currently drafted, it is impermissibly vague and would potentially bring virtually all non-cash payments within the VAT net, a result that would be commercially damaging and administratively unmanageable. Furthermore, imposing VAT on digital payment services would significantly increase transaction costs across mobile money platforms, card payment networks and online payment gateways thus reversing hard-won financial inclusion gains by incentivising a reversion to informal, cash-based transactions.

Committee Observation

The Committee acknowledged the concerns raised by Oraro And Company Advocates and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 45

536. Delete the proposal because permitting the Commissioner to issue agency notices, effectively garnishing a taxpayer's receivables, during a live appellate process fundamentally undermines the right to a fair hearing and the integrity of the dispute resolution framework. Furthermore, noting that KRA is well documented as experiencing significant delays in processing and remitting refunds to taxpayers, allowing the Authority to collect disputed amounts which may ultimately be determined invalid, while simultaneously delaying refunds, creates a structurally unjust relationship inconsistent with the principles of legitimate expectation and administrative fairness.

Committee Observation

The Committee agreed with the proposal by Oraro And Company Advocates.

Clause 47

537. Delete the proposal because it is regressive and imposes unnecessary financial strain on taxpayers without generating any commensurate revenue or administrative benefit for KRA. The proposal does not generate any new revenue for the Government. Instead, it merely converts a straightforward offset into a deferred cash inflow, with all the associated administrative overhead of processing refund applications.

Committee Observation

The Committee agreed with the proposal by Oraro And Company Advocates.

3.3.16 THE KENYA PRIVATE SECTOR ALLIANCE (KEPSA)

Clause 2

538. Delete the entire Clause as the proposals to amend the definitions of 'immovable property', and 'management or professional fees' undermine judicial authority and tax certainty. Additionally, the proposed amendment to the definition of 'royalty' increases cost of financial services to customers and departs from internationally recognized principles on royalties.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposed amendment clarifies the definition of "immovable property" for purposes of capital gains tax and indirect transfer rules, including land, buildings, rights over land, mineral rights, and petroleum interests, to remove ambiguity and ensure consistent application of the law. Further, the Committee noted that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty.

Clause 3

539. Amend the Bill to provide retrospective and transitional exemption provision for gratuity accruals as below:

'Gratuity payments made to employees under contracts or collective bargaining agreements that contained gratuity clauses prior to 1st January 2025 shall be exempt from income tax in respect of all accruals arising from the full period of service, including service rendered before the commencement of the 2025 and 2026 amendments, provided the total qualifying period of service is not less than three years'

540. KEPSA submitted that this would enhance equity for workers, give employer confidence and help to realise recognition of industry good practice.

Committee Observation

The Committee acknowledged KEPSA's proposal but noted that the proposal cannot be applied retrospectively.

Clause 6

541. Delete the proposal as the proposed 5-day remittance requirement creates compliance risk since it is operationally impractical given centralized treasury models and multi-jurisdictional settlement cycles.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clause 16

542. Delete the proposal as the ITA already provides for the procedure on how to treat undistributed company profits.

Committee Observation

The Committee acknowledged the concerns raised by KEPSA and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 17 (a)(iii)

543. Delete the proposal in its entirety as it is likely to cause variations in the cost of batteries.

Clause 22(b)

544. Delete the proposed new Paragraph 3 subparagraph (q).

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but was of the view that the proposed amendment provides a clear legal basis for taxing income from the sale of scrap metal, enhances traceability of transactions, addresses compliance challenges in the informal sector, and promotes fairness and consistency in the tax system

Clause 18

545. KEPSA proposed the deletion of the proposal citing that the four-month period may not be sufficient to accommodate the full tax compliance cycle for a significant category of taxpayers. In practice, the preparation of income tax returns is dependent on the finalisation of audited financial statements, which in turn require completion of audit procedures, resolution of audit queries, and approval by the board of directors. For entities operating in regulated sectors, additional statutory filings and regulatory validations may also be required prior to finalisation of financial results.

Committee Observation

The Committee acknowledged KEPSA's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19

546. Delete the proposal in its entirety since it has the same effect to taxpayers as the proposal in Clause 18 above.

Committee Observation

The Committee acknowledged KEPSA's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23

547. Delete the proposal as it introduces substantial ambiguity regarding the operation and scope of indirect disposal provisions, particularly when read together with the preceding provisions.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the broad drafting is intentional and necessary to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained as contained in the Bill.

Clause 27

548. Delete the proposal as Input VAT is claimed in full compliance with the law as it stood at the time of the transactions. Additionally, the proposal in the Bill conflicts with Constitutional principles of fair administrative action.

Committee Observation

The Committee acknowledged the concerns raised by stakeholder but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not disturb input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained as contained in the Bill.

Clause 28

549. Delete the proposal since extending the bad debt VAT refund window from two to three years imposes additional cash flow burden on businesses that have already suffered a commercial loss through non-payment by a debtor.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the clause as contained in the Bill.

Clause 31(a)(i)

550. Delete the proposal as imposition of 16% VAT on goods of Chapter 88 introduces a direct capital expenditure shock on such goods. This may affect the regional competitiveness of Kenyan operators due to the drastic increase in total cost of ownership and maintenance of aircrafts.

Clause 31(a)(iii)

551. Delete the proposal to make direction finding compasses, instruments and appliances vatable at standard rate. The additional cost inflation introduces direct safety risks, as prohibitive pricing heavily disincentivizes proactive, preventative upkeep. Beyond fleet safety, the tax undermines Kenya's domestic MRO (Maintenance, Repair, and Overhaul) capacity. Local carriers will inevitably bypass Kenyan Approved Maintenance Organizations (AMOs) in favour of more competitive, tax-friendly regional alternatives.

Clause 31(a)(v)

552. Delete the proposal since it would increase the cost of aircraft spare parts in Kenya leading to immediate loss of business as regional and domestic operators shift their heavy maintenance contracts to other tax-friendly countries in the region.

Clause 31(a)(ix)
Paragraph 158

553. Delete the proposal and insert Paragraph 158 into the Second Schedule of the VAT Act to make dialyzers of tariff number 8421.29.00 zero rated. The stakeholder submitted that dialyzers are a component of dialysis and providing broader relief through zero rating instead of VAT exemption would better suit patients, insurers, hospitals and the Social Health Authority.

Committee Observation

The Committee noted that all medical items fall under the First Schedule.

Paragraph 161

554. Delete the proposal and retain pharmaceutical manufacturing inputs as zero-rated. The switch from zero rated to exempt will increase the cost of inputs.

Paragraph 162

555. Delete the proposal as transitioning locally assembled and manufactured phones from zero-rated to VAT exempt status would prevent recovery of input VAT incurred on locally sourced and imported components, raw materials, spare parts, production inputs and assembly-related costs, thereby embedding irrecoverable VAT within the final device cost.

Paragraph 164

556. Delete the proposal would result in entities operating in e mobility space and other entities aligned with reduction of carbon emissions absorbing the VAT costs of their inputs or passing the cost onto their customers.

Paragraph 165

557. Delete the proposal as applying VAT to this industry impedes the wider adoption of electric vehicles which is an important objective for the country to achieve its climate mitigation.

Paragraph 166

558. Delete the proposal to make the zero rated solar and lithium-ion batteries VAT exempt.

Clause 31(b)(i)

559. Amend the proposal by providing that subparagraph (b) of Paragraph reads as below:

(b) the issue, transfer, receipt or any other dealing with money, including —

(i) money transfer services,

(ii) accepting over the counter payments of household bills, and

(iii) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and

settlement services offered through technology platform but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money.

560. The stakeholder provided that VAT treatment of financial services should be based on the function performed, not the legal form or licensing category of the provider. Payment initiation, processing, switching, clearing, settlement, aggregation and merchant acquiring services are economically integrated components of the payment execution chain. Subjecting some of these services to VAT merely because they are supplied through software or a platform would create artificial distinctions, increase transaction costs and undermine the principle of tax neutrality.

Committee Observation

The Committee acknowledged the concerns raised by KEPSA and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32 (a)

561. Delete the proposal as transitioning of pharmaceutical inputs and raw materials from zero rated to exempt will make inputs like packaging materials costly.

Committee Observation

The Committee agreed with the proposal by KEPSA.

Clause 35

562. Delete the proposal since the proposed activation-based framework introduces a materially different excise administration and compliance model requiring operational coordination across telecom operators, importers, manufacturers, distributors and device-financing platforms.

563. In the absence of detailed implementation regulations, the framework may create significant uncertainty regarding reconciliation processes, reporting obligations, downstream data verification and treatment of non-standard device events across the supply chain.

Committee Observation

The Committee acknowledged the concerns raised by KEPSA and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise

duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 36 (a)(i)

564. Delete the proposal as it not only expands the scope of excise duty to locally manufactured or assembled phones, but also materially increases the excise duty rate on telephones from 10% to 25%.

Committee Observation

The Committee agreed with proposal by KEPSA.

Clause 36(a)(viii)

565. Delete the proposal as it would make locally manufactured confectionery uncompetitive as compared to imported ones.

Committee Observation

The Committee agreed with proposal by KEPSA.

Clause 36(a)(xiii)

566. Delete the proposal since exclusion of the proviso catering for the pharmaceutical industry will lead to an increase in the cost of glass bottles used for packaging of pharmaceuticals leading to an overall increase in cost of medicines in glass bottles.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 36(a)(xxiii)

567. Delete these proposals since the proposed exclusion introduces a non-tariff barrier which is counter to the principle of regional integration being championed. It is also in contravention of the provisions under the EAC Rules of Trade where these excise duties are exempted from the partner states.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet

the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 36 (a)(xxvii) to Clause 36 (a)(xxx)

568. Delete the four Paragraphs and replace them as follows:

HS CODE	*DESCRIPTION*	*UNIT OF QUANTITY*	*RATE*
4804.11	*Unbleached*	*KG*	*0%*
4804.31	*Unbleached*	*KG*	*0%*
4804.41	*Unbleached*	*KG*	*0%*
4804.51	*Unbleached*	*KG*	*0%*

569. KEPSA submitted that with effect from 1st July, 2022 the EAC Common External Tariff (CET) has been structured under four bands of:

- 0% for raw materials and capital goods;
- 10% for intermediate goods not available in the region;
- 25% for intermediate goods available in the region; and
- 35% for imported finished products available in the region. The mentioned rate will lead to our exports being competitive in the international markets.

570. Further, there are no manufacturers of kraft paper in Kenya and therefore, this proposal will support Kenyan carton manufacturers and agriculture sector players.

Committee Observation

The Committee noted that the proposal would require consultation to confirm the availability of local capacity to produce the product which is in line with government's initiative to support local manufacturers and create employment. The Committee therefore proposed that consultation be done before conclusion of Second Reading of the Bill.

Clause 36(xxxv)

571. Amend the Clause to exempt coal used as an industrial input in manufacturing processes from the proposed 5% excise duty, or alternatively, provide for a drawback/refund mechanism for excise duty paid on coal used in qualifying manufacturing operations.

572. KEPSA submitted that this would align the policy with the treatment of other manufacturing inputs under Kenyan tax law and protect the viability of the local manufacturing sector.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

Clause 44

573. Delete the proposal as it proposes to remove the relief that insulates a withholding agent from paying principal tax where the payee had already paid and accounted for the same tax.

Committee Observation

The Committee agreed with the proposal by KEPSA.

Clause 45

574. Delete the proposal as it would make the right of appeal illusory, and is unconstitutional under Article 47 and 50.

Committee Observation

The Committee agreed with the proposal by KEPSA.

Clause 47

575. Delete the proposal as it reverses the position introduced by the Finance Act, 2025 which allowed taxpayers to offset VAT on imports using credits arising from overpaid domestic taxes.

Committee Observation

The Committee agreed with the proposal by KEPSA.

Clause 50

576. Delete the proposal in its entirety since it seeks to introduce punitive penalties that may destabilize small providers that are critical to Medium Small and Micro Enterprises (MSMEs).

Committee Observation

The Committee acknowledged the concerns raised by KEPSA but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended

amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 51

577. Delete this proposal and retain Section 77(2) of the TPA. The stakeholder submitted that the existing approach of computation of time based on working days affords taxpayers a reasonable and practical opportunity to prepare and lodge objections and appeals, especially in relation to complex assessments that may require detailed review, consultation, and compilation of supporting documentation.

Committee Observation

The Committee acknowledged the concerns raised by KEPSA but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

Clause 55(a)(i) and (b)(i)

578. Delete the entire Clause as it will lead to increased aircraft and helicopter acquisition costs, higher pressure on essential aviation services, reduced fleet renewal, and decreased sector competitiveness.

Committee Observation

The Committee agreed with the proposal by KEPSA.

New Proposals – Income Tax Act

Section 5(4)

579. Amend Section 5(4) of the ITA by adding the following new paragraph (i)

'(i) free/at cost education provided by a School to its employees."

580. KEPSA submitted that this would provide clarity on whether staff school fee discounts constitute taxable employment benefits.

Committee Observation

The Committee noted that the proposal would introduce a targeted exemption from employment income taxation that is inconsistent with the principle under Section 3 and Section 5 of the Income Tax Act that all benefits arising from employment are taxable unless expressly and narrowly exempted, thereby creating preferential treatment for a specific category of employers. Granting schools an exemption for education benefits would broaden the scope of tax-free employment benefits, create inequity across sectors, and open the door for structuring remuneration packages as non-taxable "in-kind education benefits," leading to significant revenue erosion. Existing education policy objectives, including support for

access and affordability, are more appropriately achieved through direct fiscal interventions rather than narrowing the tax base through selective exemptions that undermine tax neutrality and fairness.

Section 10(4)

581. Amend the ITA to exclude goods and movable property under the definition of the word property by adding the proviso below Section 10 (4):
Provided that "property" shall not include goods and movable property

582. KEPSA submitted that The National Assembly amended the ITA in December 2024 to exclude goods under Section 10(4) to promote the e – commerce industry which is at its nascent stage. The intention of the National assembly was that withholding tax should not be applicable to goods. The provision as is with the word 'property' has the potential to cause uncertainties in the interpretation given the broad definition of "property".

Committee Observation

The Committee noted that the proposal would significantly narrow the scope of the digital tax framework under Section 10(4), undermining the policy objective of ensuring that income derived through digital marketplaces is appropriately brought into the tax net regardless of whether the underlying transaction involves goods or services. Excluding goods and movable property would create a major structural loophole, incentivising reclassification and migration of transactions off-platform, thereby eroding withholding tax effectiveness and distorting neutrality between online and offline commerce. The concern regarding MSMEs is better addressed through administrative thresholds or compliance simplification measures, rather than removing a broad category of transactions from the statutory tax base.

Section 15(2)(a)

583. Amend the ITA to provide a new proviso under Section 15(2)(a) to read as follows:
'Provided that, in the case of a person carrying on a money-lending business, including a licensed bank, microfinance institution, digital credit provider or other regulated credit provider, a debt that has become bad in accordance with guidelines issued by the Commissioner shall include the principal, interest and any other amount relating to the debt.'

584. KEPSA submitted that bad debts incurred by money lending businesses are a direct consequence of lending, which is their core business. Such bad debts should therefore be allowable, inclusive of both the principal and interest elements. We note that this is also the practice in several other Commonwealth jurisdictions, including South Africa, the United Kingdom, Australia and Malta. Notably, this same position has recently been upheld by the High Court of Kenya in *Branch International v Commissioner of Domestic Taxes, HCCOMMITA/E080/2025.*

Committee Observation

The Committee noted that the proposal would fundamentally distort the income tax treatment of lending businesses by allowing deduction of loan principal, which is capital in nature and not an allowable expense under established income tax principles that permit deductions only for revenue expenditures incurred in the production of income. Existing provisions and administrative guidance already allow deduction of bad debts to the extent of income previously recognised, including interest and related charges, and any ambiguity is best addressed through clarification in practice notes rather than statutory expansion. Extending deductibility to principal would create a significant risk of base erosion, double deductions upon recovery, and misalignment with the core principle of taxing net income rather than capital losses.

Section 15(4)

585. Amend Section 15(4) to read as follows:

'*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 ten years of income. Any accumulated deficit incurred by a person as at 1st July 2026 shall be deemed to have been incurred in that year of income*'

586. The stakeholder cited that this would provide legal certainty and predictability for taxpayers, preventing retrospective erosion of vested rights in carried-forward losses that could discourage investment and business recovery. Further, the 5-year limit (effective July 1, 2025) has caused uncertainty, with KRA ruling that pre-2020 losses are extinguished. Further, the Finance Act 2025 did not provide a transitional Clause.

Committee Observation

The Committee noted that the proposal would materially weaken the recent fiscal consolidation measures introduced through the five-year loss carry-forward limitation, which were designed to improve revenue predictability and prevent indefinite deferral of tax liabilities. Extending the period to ten years and introducing discretionary extensions by the Cabinet Secretary would reintroduce uncertainty, create scope for uneven application of tax relief, and significantly erode the corporate income tax base. The current framework already balances investment considerations with revenue protection, and any perceived transitional concerns should be

addressed through administrative guidance rather than reopening statutory provisions that have only recently been rationalised.

Section 15(5)

587. Amend the ITA to read as follows:

"(5) Notwithstanding subsection (4), the Cabinet Secretary may, on the recommendation of the Commissioner, extend the period of deduction beyond ten years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period"

588. KEPSA submitted that the five-year period may be quite short for capital intensive investments hence this proposal stands to impact certain taxpayers disproportionally and negatively, particularly those in capital-intensive sectors, such as manufacturing and the extractive industries, which often incur substantial tax losses over extended periods.

Committee Observation

The Committee noted that the proposal would materially weaken the recent fiscal consolidation measures introduced through the five-year loss carry-forward limitation, which were designed to improve revenue predictability and prevent indefinite deferral of tax liabilities. Extending the period to ten years and introducing discretionary extensions by the Cabinet Secretary would reintroduce uncertainty, create scope for uneven application of tax relief, and significantly erode the corporate income tax base. The current framework already balances investment considerations with revenue protection, and any perceived transitional concerns should be addressed through administrative guidance rather than reopening statutory provisions that have only recently been rationalised.

Section 16(2)(a)(iv)

589. Amend the provision by adding the following words to the end of paragraph (iv)

", except where the employer is the school that is providing the education benefit to the employee;"

590. The stakeholder submitted that the provision as is in the Act has led to conflicting High Court decisions due to uncertainty regarding whether staff school fee discounts constitute taxable employment benefits or not. The proposal would provide clarity on the matter.

Committee Observation

The Committee noted that the proposal would introduce a targeted exemption from employment income taxation that is inconsistent with the principle under Section 3 and Section 5 of the Income Tax Act that all benefits arising from employment are taxable unless expressly and

narrowly exempted, thereby creating preferential treatment for a specific category of employers. Granting schools an exemption for education benefits would broaden the scope of tax-free employment benefits, create inequity across sectors, and open the door for structuring remuneration packages as non-taxable "in-kind education benefits," leading to significant revenue erosion. Existing education policy objectives, including support for access and affordability, are more appropriately achieved through direct fiscal interventions rather than narrowing the tax base through selective exemptions that undermine tax neutrality and fairness.

Section 35(5)

591. Amend the ITA to extend the period for remitting tax to the 20th of the following month. This is because the 5-day remittance deadline has impacted cashflows leading to increased operating capital needs with a requirement to lend through bank overdrafts and consequently an additional business cost.

Committee Observation

The Committee noted that extending the remittance period for withholding VAT from five days to the 20th of the following month would undermine the core design of the withholding VAT system, which treats the tax as government revenue collected at source and not working capital for businesses. Delaying remittance increases the risk of revenue leakage, misuse of public funds by withholding agents, and cash flow constraints for the Exchequer, contrary to sound public finance management principles. The current short remittance timeline is intended to ensure timely revenue mobilisation and fiscal discipline, and any perceived administrative burden does not outweigh the systemic risk of weakening VAT collection efficiency and compliance integrity.

Third Schedule – Head A

592. KEPSA proposed that Paragraph 1 of Head A of the Third Schedule be amended to set the personal relief at Kshs. 3,000 per month. KEPSA submitted that this would effectively set the monthly tax-free threshold at Kshs 30,000.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of personal relief. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

Third Schedule – Head B

593. Amend Paragraph 1 to review the threshold for the tax incentive for medium-scale developers. The new paragraph is proposed to read as follows: -

"A company engaged in the construction of at least 50 residential units per year shall be taxed at a preferential rate of 15%.'

The stakeholder submitted that reducing the threshold from 100 to 50 units democratizes the tax incentive for medium-scale developers and contribute towards lowering house prices through market forces.

Committee Observation

The Committee did not support the proposal as the incentive was targeted for huge investment in the housing sector.

594. Amend the Third Schedule of the ITA to ensure the highest PAYE tax band is 30%. KEPSA proposed Paragraph 1 of Head B in the Third Schedule be deleted and replaced as follows:

1. The individual rates of tax shall be-

Monthly Pay Bands (KES)	*Rate of Tax (%)*
On the first Ksh. 30,000	*10%*
On the first Ksh. 30,000	*20%*
On the first Ksh. 30,000	*25%*
On the first Ksh. 30,000	*27.5%*
On amounts over Ksh. 800,000	*30%*

595. KEPSA supported this proposal by illustrating that the proposed 5 % reduction in tax rates across all bands is expected to release approximately Kshs 28.1 billion back to salaried workers, boosting their spending and investments, including in small businesses. Consequently, the Kshs 28.1 billion released to workers translates into a GDP output of roughly Sh42 billion, or about 0.26 percent of the GDP.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee

therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

Eighth Schedule of the Income Tax Act

596. Amend Paragraph 13 of the Eighth Schedule of the ITA by adding a new paragraph after (d) to read as below;

'the transfer of shares from an offshore jurisdiction and registration of such shares in Kenya. Provided that this paragraph shall be valid until 30 June 2028'

597. KEPSA submitted that owing to the introduction of taxation on indirect disposals, it has become expensive to redomicile investment shares in Kenya unless in the context of an internal restructuring. Through the proposed amendment, we propose a period of two years (up to 30 June 2028) to allow for persons to transfer shares/property in Kenya without the burden of capital gains tax.

Committee Observation

The Committee noted that the proposal would create a time-bound capital gains tax exemption for offshore share redomiciliation, introducing a targeted and temporary tax holiday that undermines the principle of stability and neutrality in the taxation of capital transactions under the Eighth Schedule. Such an exemption would open significant avenues for tax avoidance and treaty shopping through artificial offshore structuring to qualify for the relief before the sunset date, resulting in revenue loss and enforcement challenges. The existing framework already provides structured relief for genuine corporate reorganisations, making a broad additional exemption unnecessary and inconsistent with the objective of ensuring equitable taxation of capital gains.

New Proposal – Income Tax Regulations

Regulation 12(2) of the Income Tax (Charitable Organisations and Donations) Exemptions Rules, 2024

598. Amend Regulation 12(2) of the Income Tax (Charitable Organisations and Donations) Exemptions Rules, 2024, by deleting paragraph (e) which states:

'(e) in the case of fee charging educational institutions, full scholarships are granted to at least ten percent (10%) of its student population who must be from poor and needy backgrounds and the selection criteria conforms to the requirements spelt under these Rules'

599. The stakeholder submitted that a number of schools in Kenya are established and operated by charitable or community-based organisations whose activities extend well beyond classroom education. Some of these are broader charitable activities, including

affordable medical services, environmental programmes, and community empowerment initiatives.

Committee Observation
The Committee noted that it cannot amend Regulations in the Bill.

New Proposal – Issue KRA administrative guidance to:
1) classify bona fide staff education benefits provided by schools as education assistance rather than taxable fringe benefits, and/or
2) introduce clear valuation rules, including safe-harbours such as marginal cost valuation, lowest bona fide fee band, or capped per-child exemption thresholds.

600. KEPSA submitted that where taxation is applied, current administrative practice often values the benefit at the full commercial fee, which does not reflect the economic cost to the school or differentiated pricing structures. Comparable domestic practice exists within Kenya's public university sector, where lecturers commonly receive substantial fee concessions or waivers for their dependants studying at their institutions, and these benefits are generally treated as part of standard employment terms rather than taxable employment income. Aligning treatment across the education sector would improve consistency and predictability.

Committee Observation
The Committee noted that the proposal would introduce a targeted exemption from employment income taxation that is inconsistent with the principle under Section 3 and Section 5 of the Income Tax Act that all benefits arising from employment are taxable unless expressly and narrowly exempted, thereby creating preferential treatment for a specific category of employers. Granting schools an exemption for education benefits would broaden the scope of tax-free employment benefits, create inequity across sectors, and open the door for structuring remuneration packages as non-taxable "in-kind education benefits," leading to significant revenue erosion. Existing education policy objectives, including support for access and affordability, are more appropriately achieved through direct fiscal interventions rather than narrowing the tax base through selective exemptions that undermine tax neutrality and fairness.

New Proposal – Value Added Tax Act
Section 7 (2)
Insert the following subsection after subsection (2)

'(3) Notwithstanding subsection (2), the supply of taxable goods and services, including raw materials and capital equipment, to a licensed exporter shall be charged at the rate of eight per cent (8%) of the taxable value.
(4) For the purposes of this section, "licensed exporter" means a person licensed as such by the Cabinet Secretary responsible for matters relating to trade or export promotion [or under the relevant export promotion legislation'

601. KEPSA submitted that this prevents the VAT refund bottleneck where licensed exporters accumulate massive credits leading liquidity challenges.

Committee Observation
The Committee noted that the proposal fragments VAT policy through selective reduced rates rather than addressing refund inefficiencies within the existing framework, thereby increasing complexity, compliance risks, and administrative burden for the tax authority. The horticulture sector already benefits from zero-rating on exports, and introducing an additional reduced input rate of 8% distorts input tax neutrality and creates potential for leakage and misclassification between export and domestic supply chains.

Section 12
602. Amend by inserting the following new sub-section immediately after sub-section (1)
(1A) Notwithstanding the provisions of subsection (1), the time of supply for taxable goods or services shall be the earliest of—
(a) the date on which the invoice for the supply is settled in full or in part;
(b) the date on which the performance of the services is completed or the goods are delivered; or
(c) the date on which the customer takes possession of or control over the supply

603. KEPSA submitted that this proposal addresses a critical misalignment between tax points and operational realities of key economic sectors. By shifting the VAT "Time of Supply" from a rigid invoicing or event benchmark to actual economic finalization, this amendment protects business liquidity, reduces administrative friction, and aligns Kenyan tax policy with global best practice. The industries affected are tourism, shipping and logistics among others.

Committee Observation
The Committee noted that the proposal introduces ambiguity into the determination of the VAT time of supply by replacing clear statutory triggers with a hybrid "earliest of" framework that may vary across contracts, delivery terms, and partial payments, thereby increasing disputes and compliance uncertainty. Kenya's current VAT structure

already provides clear and administrable rules that balance invoicing and supply events, supporting predictable revenue collection and enforcement efficiency. Adopting the amendment would complicate tax administration, increase opportunities for manipulation of timing of tax liability, and undermine the stability of VAT revenue flows.

Section 13

604. Insert a provision in Section 13 as follows:

"Taxable goods or services transferred from one SEZ licensed enterprise to another SEZ licensed enterprise shall be exempt from VAT or deemed as non-taxable transactions."

605. This creates an internal SEZ ecosystem without creating new tax liabilities or refund claims

Committee Observation

The Committee noted that the Bill does not amend the Special Economic Zones Act.

Section 17 (6C)

606. Amend the VAT Act to allow full deduction of input VAT for all purchases used to generate income where 90% of the sales are standard rated. The stakeholder submitted that this proposal will result in fair business operating environment and reduce administrative burden for both the tax administrator and the tax payer.

Committee Observation

The Committee noted that the proposal reintroduces broad input VAT recovery in mixed-use scenarios through a formulaic approach that undermines the core VAT principle of input-output neutrality and risks substantial revenue leakage. The removal of the previous 90% rule was a deliberate policy shift under the Tax Laws (Amendment) Act, 2024 to curb abuse and improve precision in input tax attribution, particularly where exempt supplies are involved. Reinstating a near-full deduction mechanism would weaken compliance discipline, increase disputes over apportionment, and distort competition between taxable and exempt sectors.

First Schedule – Part I

607. Amend Part I by inserting the following new Paragraph 171 after Paragraph 170

(171) The sale, disposal or realisation of collateral, repossessed assets or secured property by or on behalf of a licensed financial institution, where such sale, disposal or realisation arises from the enforcement of security in connection with a loan, credit facility or other exempt financial service.

608. KEPSA submitted that the sale of collateral by banks is not an independent economic activity in and of itself; rather, it is a direct consequence of providing credit, which is already exempt from VAT.

Committee Observation
The Committee noted that a similar issue has been considered in the Bill.

609. KEPSA proposed that the following items be moved from the First Schedule to the Second Schedule Part A – Zero Rated Supplies.
First Schedule – Exempt Supplies Part 1 – Goods of Value Added Tax Act
2106.10.00 Protein concentrates and textured protein substances
2106.90.10 Food preparations specially prepared for infants
2106.90.20 Deleted by Act No. 7 of 2014, s. 2(a)(i)
2106.90.99 Other - Food preparations not elsewhere specified or included
2106.90.91 Food supplements
2936.27.00 Vitamin C and its derivatives
2941.20.00 Streptomycins and their derivatives; salts thereof.
2941.30.00 Tetracyclines and their derivatives; salts thereof.
2941.40.00 Chloramphenicol and its derivatives; salts thereof.
2941.50.00 Erythromycin and its derivatives; salts thereof.
2941.90.00 Other antibiotics.
3001.20.00 Extracts of glands or other organs or of their secretions.
3001.90.00 Other - Heparin and its salts
3001.90.00 Other - Other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included
3002.12.00 Antisera and other blood fractions
3002.13.00 Immunological products unmixed, not put up in measured doses or in forms or packings for retail sale
3002.14.00 Immunological products, mixed, not put up in measured doses or in forms or packings for retail sale
3002.15.00 Immunological products put up in measured doses or in forms or packings for retail sale
3002.41.00 Vaccines for human medicine.
3002.42.00 Vaccines for veterinary medicine.
3003.10.00 Medicaments containing penicillin or derivatives thereof, with penicillanic acid structure, or streptomycin or their derivatives.
3003.20.00 Medicaments containing other antibiotics not put up in measured doses or in forms or packings for retail sale.
3003.31.00 Insulin
3003.39.00 Other medicaments, containing hormones or other products of heading no. 29.37, not put up in measured doses or in forms or packings for retail sale.

3003.40.00 Medicaments containing alkaloids or derivatives thereof but not containing hormones or other products of heading No. 29.37 or antibiotics, not put up in measured doses or in forms or packings for retail sale.
3003.41.00, 3003.42.00, 3003.43.00, and 3003.49.00 Other medicaments, containing alkaloids or derivatives thereof, put up in measured doses or in forms or packings for retail sale
3003.90.00 Other.
3003.90.00 Infusion solutions for ingestion other than by mouth not put up in measured doses or in forms or packings for retail sale and other medicaments consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale
3003.90.90 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale.
3004.10.00 Medicaments containing penicillin or derivatives thereof, with a penicillanic acid structure, or streptomycin or their derivatives, put up in measured doses or in forms or packings for retail sale.
3004.20.00 Other medicaments containing antibiotics, put up in measured doses or in forms or packings for retail sale.
3004.31.00 Medicaments containing insulin put up in measured doses or in forms or packings for retail sale.
3004.32.00 Other, medicaments containing hormones or other products of heading 29.37 containing corticosteroid hormones, their derivatives or structural analogue of tariff
3004.39.00 Other medicaments containing hormones or other products of heading No. 29.37 but not containing antibiotics, put up in measured doses or in forms or packings for retail sale.
3004.41.00 Containing ephedrine or its salts.
3004.42.00 Containing pseudoephedrine (INN) or its salts.
3004.43.00 Other medicaments, containing alkaloids or derivatives containing norephedrine or its salts
3004.49.00 Other.
3004.50.00 Other medicaments containing vitamins or other products of heading No. 29.36 put up in measured doses or in forms or packings for retail sale.
3004.60.00 Other, containing antimalarial active principles described in Subheading Note 2 to this Chapter
3004.90.00 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.
3004.90.90 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.

3005.10.00 Adhesive dressings and other articles having an adhesive layer impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.
3005.90.11, 3005.90.12, 3005.90.19 White absorbent cotton wadding, impregnated or coated with pharmaceutical substances, or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes
3005.90.90 Other wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.
3006.10.00 Sterile surgical catgut, similar sterile suture materials and sterile tissue adhesives for surgical wound closure, sterile laminaria and sterile laminariatents; sterile absorbable surgical or dental haemostatics.
3006.30.00 Opacifying preparations for X-ray examinations; diagnostic reagents designed to be administered to the patient.
3006.40.00 Dental cements and other dental fillings; bone reconstruction cements.
3006.50.00 First-aid boxes and kits.
3006.60.00 Chemical contraceptive preparations based on hormones or on other products of heading 29.37 or spermicides
3006.70.00 Gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments.
3006.91.00 Appliances identifiable for ostomy use.
3006.92.00 Waste pharmaceuticals.
3006.93.00 Placebos and blinded (or double-blinded) clinical trial kits for a recognised clinical trial, put up in measured doses
3822.11.00 Malaria diagnostic test kits
3822.13.00 Blood-grouping reagents.
9018.90.00 Blood giving set and infusion sets
9619.00.10 Sanitary towels (pads) and tampons.
9019.20.00 Airway Guedel and Ambu bags
9021.10.00 Orthopaedic or fracture appliances
9021.50.00 Pacemakers for stimulating heart muscles, excluding parts and accessories
9025.19.00 Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments, thermometers and pyrometers, not combined with other instruments: Other
0402.21.00 Milk in powder, granules or other solid forms, of a fat content, by weight, exceeding 1.5%, not containing added sugar or other sweetening matter.
0402.29.00 Other milk in powder granules or other solid forms, of a fat content, by weight, exceeding 1.5%
0402.91.00 Other not containing added sugar or other sweetening matter.
0402.99.00 Other milk
Mosquito nets of tariff No. 6304.91.10.

Goods of tariff number 4703.21.00 for use in the manufacture of baby diapers, adult diapers, sanitary towels (pads) and tampons.

Articles of apparel, clothing accessories and equipment specially designed for safety or protective purposes for use in registered hospitals and clinics or by county government or local authorities in firefighting.

Personal protective equipment, including facemasks, for use by medical personnel in registered hospitals and clinics, or by members of the public in the case of a pandemic or a notifiable infectious disease.

Medical ventilators and the inputs for the manufacture of medical ventilators upon recommendation by the Cabinet Secretary responsible for matters relating to health.

Physiotherapy accessories, treadmills for cardiology therapy and treatment of tariff number 9506.91.00 for use by licensed hospitals upon approval by the Cabinet Secretary responsible for matters relating to health.

Dexpanthenol of tariff number 3304.99.00 used for medical nappy rash treatment by licensed hospitals upon approval by the Cabinet Secretary responsible for matters relating to health.

Medicaments of tariff numbers 3003.41.00, 3003.42.00, 3003.43.00, 3003.49.00, 3003.60.00 (excluding goods of heading 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses.

Diagnostic kits or laboratory reagents and their certified reference materials of heading 38.22 upon approval by the Cabinet Secretary responsible for matters relating to health;

Electro-diagnostic apparatus, of tariff numbers 9018.11.00, 9018.12.00, 9018.13.00, 9018.14.00, 9018.19.00, and other apparatus, Instruments and appliances of tariff numbers 9018.20.00, 9018.90.00 upon approval by the Cabinet Secretary responsible for matters relating to health.

Other instruments and appliances, of tariff number 9018.41.00, used in dental sciences, dental drill engines, whether or not combined on a single base with other dental equipment, upon approval by the Cabinet Secretary responsible for matters relating to health.

Other instruments and appliances, used in dental sciences of tariff 9018.49.00, Other ophthalmic instruments and appliances of tariff 9018.50.00 and other instruments and appliances of tariff number 9018.90.00 upon approval by the Cabinet Secretary responsible for matters relating to health.

Ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus upon approval by the Cabinet Secretary responsible for matters relating to health.

Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters upon approval by the Cabinet Secretary responsible for matters relating to health.

Needle holders and urine bags, of tariff heading 3926.

Tourniquets of tariff number 3926.90.99 for use by licensed hospitals upon approval by the Cabinet Secretary responsible for matters relating to health.

Medical oxygen supplied to registered hospitals.

Urine bags, adult diapers, artificial breasts, colostomy or ileostomy bags for medical use.

Committee Observation
The Committee noted that these proposals will lead to accumulation of tax refunds which the government has been trying to cure by exempting such items.

Second Schedule
Part A

610. Amend the VAT Act by reinstating the zero-rated VAT status for agricultural pest control products and expanding the classification from "Agricultural Pest Control Products" to "Pest Control Products." According to KEPSA, this will help lower agricultural production costs and improve food security by reducing the cost burden on farmers and strengthen domestic agricultural activity.

Committee Observation
The Committee noted that this proposal will lead to accumulation of tax refunds which the government has been trying to cure.

611. Amend the VAT Act by reinstating the zero-rated VAT status for of fertilizers classified under HS Code Chapter 31or consider a lower VAT e.g. 5%. The stakeholder submitted that this would reduce production cost since input VAT will be reclaimed.

Committee Observation
The Committee noted that this proposal will lead to accumulation of tax refunds which the government has been trying to cure.

New Proposals – Tax Procedures Act
Section 23

612. Introduce administrative flexibility allowing certain genuine business expenses to be recognized without ETIMS receipts where such receipts are not reasonably available. Specifically*:*

1. *Allow deduction of small operational expenses where ETIMS receipts cannot reasonably be obtained.*
2. *Introduce a reasonable transaction threshold below which alternative documentation may be used. (e.g., Kes. 5,000 – 10,000)*
3. *Accept alternative documentation including:*
    - *Mobile money payment confirmations (e.g., M-Pesa statements)*
    - *Internal expense vouchers*
    - *Delivery logs or service confirmations*
    - *Digital platform confirmations*

Maintain audit oversight where taxpayers must demonstrate the business purpose of such expenses.

4. *Amend the Tax Procedures Act and ETIMS implementation regulations to introduce a sector-specific exemption for patient-level pharmaceutical dispensing transactions.*

Provide:

"Licensed pharmaceutical retail outlets dispensing medicines directly to patients pursuant to a prescription or professional pharmaceutical service shall be exempt from mandatory ETIMS invoice transmission requirements in respect of patient-level dispensing transactions

Committee Observation

The Committee noted that the proposal would delay the transition to the full implementation to eTIMS and taxpayer compliance with the digital tax invoice system. As such, the proposal was not supported.

Section 42A

613. Amend section 42A of the Tax Procedures Act to extend the remittance of withholding VAT tax to the 20th of the following month from the current 5 days after the deduction is made. The short payment period has caused operating capital needs and stringent administrative burdens on businesses.

Committee Observation

The Committee noted the proposal. However, the proposal would delay remittances of revenue collected due to the exchequer hence causing cash flow problems to the Government. Therefore, the Committee does not support.

Section 47(1)(a) and (b)

614. Amend the TPA to read as follows:

1) Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner, in the prescribed form—

(a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes, final balance of tax, withholding taxes, Pay As You Earn, VAT, withholding VAT and value added tax payable on imports; or

b) (i) in the case of income tax, within five years from the date on which the tax was overpaid; or

(ii)in the case of any other tax, within twelve months from the date on which the tax was overpaid.

615. The stakeholder submitted that iTax should be configured to enable offset of present tax liabilities for final balance of tax, VAT, PAYE, WHVAT and WHT in the same way as with Instalment Tax, VAT on import obligations.

Committee Observation

The Committee noted that the proposal would introduce significant administrative and compliance complexities by permitting offsets across multiple tax heads that are administered, verified, and reconciled by different functional units within the tax administration system. In addition, PAYE and withholding tax are trust taxes collected on behalf of employees and suppliers and therefore do not constitute the taxpayer's own tax liability against which overpaid taxes should be offset. Expanding cross-tax offsets would increase reconciliation challenges, delay revenue accounting, complicate audit trails, and create inefficiencies in tax administration that could outweigh any cash flow benefits to taxpayers. Therefore, the proposal was not supported.

Section 47(2)

616. Amend the TPA by deleting the words after 'Commissioner ascertains that there was an overpayment of tax' so that Section 47(2) reads as below:

(2) The Commissioner shall ascertain and determine an application under subsection (1) within ninety days and where the Commissioner ascertains that there was an overpayment of tax.

617. KEPSA submitted that the determination period of 120 days is adversely affecting taxpayers by delaying access to legitimate refunds or offset of overpaid tax against outstanding or future liabilities.

Committee Observation

The Committee noted that deeming a refund application automatically approved where the Commissioner fails to conclude an audit within 120 days could result in the payment of unverified or fraudulent claims, exposing the Government to significant revenue losses. Tax refund audits often involve complex transactions, third-party validations, and cross-checking of records, which may reasonably require more time to safeguard public funds. While expeditious processing of refunds is desirable, automatic approval without completion of the audit process undermines sound tax administration and revenue protection objectives. As such the proposal was not supported.

Section 47(4A)

618. Amend subsection 4A by deleting the words '*one hundred and eighty days*' and replacing them with '*one hundred and twenty days*'. The reduction in timeline to conduct a KRA audit is aligned with the pace at which the refund application is concluded to ensure businesses do not get delayed in getting their refunds approved and settled promptly to aid with their cashflow requirements.

Committee Observation

The Committee noted that the proposal imposes a rigid statutory audit and determination timeline that is not aligned with the complexity, risk-

based nature, and evidentiary requirements of tax refund verification processes, which vary significantly across taxpayers and sectors. Automatic deeming of approval after 120 days creates a material risk of revenue leakage, fraud, and erroneous refunds, particularly in high-value or high-risk claims that require third-party verification and cross-border checks. Existing administrative reforms and digitisation under KRA systems already support faster processing without undermining the Commissioner's discretion to complete proper due diligence before issuing refunds. As such the proposal was not supported.

Administrative Inefficiencies and Delays in Tax Decision-Making Affecting Schools

619. Request the Cabinet Secretary for the National Treasury, in consultation with the Kenya Revenue Authority, to establish clear administrative service standards and timelines for tax exemption determinations, audit processes, and objection decisions affecting educational institutions. Develop standardised documentation requirements and strengthen internal reconciliation procedures before issuance of tax assessments.

Committee Observation
The Committee did not support the proposal.

New Proposal – Excise Duty Act
Section 14

620. Amend Section 14 of the Excise Duty Act by replacing the word "raw materials: with "inputs" so that it reads as follows:
'Where excise duty has been paid in respect of excisable goods imported into, or manufactured in Kenya by a licensed manufacturer and which have been used as ***inputs*** *in the manufacture of other excisable goods (****hereinafter referred to as "finished goods****"), the excise duty paid on the raw materials shall be offset against the excise duty payable on the finished goods.'*

621. According to KEPSA, this will accord taxpayers a relief of excise tax paid on all inputs including packaging material used for purposes of manufacturing with the impact of accelerating investment and economic recovery both in the manufacturing and recycling sector.

Committee Observation
The Committee noted that Excise relief on raw materials is meant to prevent tax cascading on production inputs, not to subsidise packaging, which is a distinct, taxable component of the finished product. Excluding packaging materials protects revenue while preserving legitimate relief for true production inputs as Packaging materials are not considered as raw materials in both manufacturing and accounting practice internationally. As such the proposal was not supported.

New Proposal – Special Economic Zones Act, 2015
Section 4

622. Amend the Section to provide as follows:

'Existing enterprises or Brownfield sites shall be eligible for SEZ status within their current physical locations provided they demonstrate export-oriented growth or high-value manufacturing.'

623. The stakeholder submitted that this amendment would eliminate the prohibitive cost of relocating heavy machinery to new greenfield sites. Further, it would encourage established local companies to transition into the SEZ framework without operational disruption.

Committee Observation

The Committee noted the submission by the stakeholder. However, the proposal does not fall within the scope of the Finance Bill, 2026.

3.3.17 KENYA ASSOCIATION OF MANUFACTURERS(KAM)

Clause 2 (b)

624. Delete the proposed inclusion in its entirety as it undermines judicial authority and tax certainty.

Committee Observation

The Committee noted the concerns raised by KAM but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore, the proposal was not supported.

Clause 2 (c)

625. Delete the proposed new sub-paragraphs (a)(vii). It is the view of the stakeholder that the proposal departs from internationally recognized principles on royalties by recharacterizing commercial access to payment infrastructure as intellectual property use, creating risks of double taxation and potential treaty disputes under OECD-aligned tax treaties.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 16

626. Amend by deleting the words *"at least sixty per cent of"* or fix the percentage at no more than 10% and expressly exclude amounts retained for: debt service, capital expenditure, working capital, and regulatory minimum capital requirements. It is the stakeholder's opinion that a mandatory 60% deemed dividend distribution is excessive and limits the ability of manufacturers to reinvest profits into expansion, technology upgrades, and employment creation. Further, a reduced threshold to 10% of income will allow companies flexibility to retain earnings for operational and growth requirements.

Committee Observation

The Committee acknowledged the concerns and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clauses 17 (a) (v) and 22 (b)

627. Delete the proposals that seeks to impose WHT on the sale of scrap metal. According to the stakeholder, the importers of Scrap metal pay several local taxes including VAT, Import Declaration Fee, Railway Development Levy, PAYE, and Corporate Tax, and adding withholding tax on foreign scrap that cannot be offset becomes a cost on the manufacturer.

Committee Observation

The Committee acknowledged the concerns raised by the KAM but was of the view that the proposed amendment provides a clear legal basis for taxing income from the sale of scrap metal, enhances traceability of transactions, addresses compliance challenges in the informal sector, and promotes fairness and consistency in the tax system.

Clause 21

628. Amend by inserting a new proposal to cover deduction of investment allowance on pharmaceutical manufacturing with a provision for 100% in the first year of use. This will help with cashflow management for the business thus stimulating new investments in modern manufacturing equipment required for the growth of the local pharmaceutical industry.

Committee Observation

The Committee acknowledged the concerns but observed that the proposal provides necessary clarity on the investment allowance for industrial buildings by specifying that the 10 percent allowance is claimable annually in equal instalments, thereby removing ambiguity, ensuring consistent application of the law, and enhancing predictability for taxpayers and administrators. The Committee therefore noted that the clause is a clean-up amendment intended to correct and clarify the provision, and recommended it for retention as contained in the proposal.

Clause 23 (d)

629. Delete the proposal because the provision may create Kenyan CGT exposure for offshore investor exits, capital raising transactions, group restructurings and internal re-organizations undertaken at holding company level. Further, it does not currently incorporate objective ownership, control or materiality thresholds, creating potential uncertainty regarding the scope of application.

Committee Observation

The Committee acknowledged the concerns raised by KAM but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained.

Clause 27

630. Amend by deleting the proposed amendment or retain the proposed section 17A with the following proviso:

a) *the provision should only apply prospectively to purchases made after the exemption takes effect; or*
b) *Transitional relief should be granted for inventory acquired before the legislative change.*

631. The stakeholder submitted that manufacturing and local assembly operations typically hold raw materials, components, spare parts and production inputs

substantially in advance due to import lead times, production scheduling requirements and supply chain continuity considerations. As a result, significant inventory, work-in-progress and production stock may remain within active manufacturing and distribution cycles at the date of transition to VAT exemption.

Committee Observation

The Committee acknowledged the concern but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

632. Delete the proposal since it undermines the predictability, stability, and certainty of the tax system and broader tax policy framework.

Committee Observation

The Committee acknowledged the concerns but observed that reverting to two years does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion and recommended retention of the proposal.

Clause 31(a)(viii)

633. Delete the proposal and maintain denatured ethanol as VAT exempt. It is the view of the stakeholder that moving it to taxable supplies would increase the production costs of inputs across multiple sectors.

Committee Observation

The committee agreed to delete the proposal for the denatured ethanol, which is used in industrial input in pharmaceuticals and cosmetics and in manufacturers' processes. Therefore, moving to taxable supplies increases inputs.

Clause 31(a)(ix)

634. Delete the clause inserting a new paragraph 160 since the current zero-rated status of inputs or raw materials locally purchased or imported for the manufacture of animal feeds enable manufacturers recover input VAT.

Committee Observation

The Committee acknowledged the concern and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended deleting the proposal.

Clause 31(a)(ix)

635. Delete the clause inserting a new paragraph 161 since the switch from zero rated to exempt status will increase the cost of inputs for pharmaceuticals especially where these are being used by third-party suppliers to the industry such as producers of packaging materials.

Committee Observation

The Committee agreed to delete the proposal because rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023, to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 31(a)(ix)

636. Delete the clause inserting a new paragraph 162 since the proposed VAT changes will negate the government's efforts in reviving the sugar industry. Further, it is the view of the stakeholder that this proposal would raise the cost of local sugar production, making it less competitive in the regional and global markets.

Committee Observation

The Committee acknowledged the concern and agreed that rationalising VAT exemptions on the transportation of sugar will increase transportation costs and hence resolved to delete the proposal. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 31(a)(ix)

637. Amend the proposal under the new paragraph 163 by removing the VAT exemption on imported finished mobile phones and extending the VAT exemption status to production inputs directly used in local assembly, including components, raw materials, spare parts and production materials.

Committee Observation

The Committee acknowledged the concern and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones. Therefore, the Committee resolved to delete the proposal.

Clause 31(a)(ix)

638. Delete the clause inserting a new paragraph 164 and retain the supply of locally assembled electric motorcycle as Zero-Rated since the proposal undermines Kenya's EV industrial policy objectives of local manufacturing, job creation, and supply chain development.

Committee Observation

The Committee acknowledged the concern and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of motorcycles. Therefore, the Committee emphasized that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31(a)(ix)

639. Delete the clause inserting a new paragraph 165 and retain electric bicycles under zero-rating. The stakeholder submitted that exempt status will encourage the importation of fully built units of bicycles; reduce VAT recovery hence deterring future investment in local assembly lines and battery infrastructure; and also undermines Kenya's EV industrial policy objectives of local manufacturing, job creation, and supply chain development.

Committee Observation

The Committee agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of electric bicycles. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for electric bicycles as 8712.00.00. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 31(a)(ix)

640. Delete the clause inserting a new paragraph 166 and retain solar and lithium-ion batteries under zero-rating. The stakeholder submitted that the removal of solar and lithium-ion batteries from the zero-rated column will increase the cost of production of locally manufactured batteries, making exports more expensive.

Committee Observation

The Committee agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 31(a)(ix)

641. Delete the clause inserting a new paragraph 167 because the VAT treatment risks tilting the market in favour of fully built units and discouraging local value addition. Further, the stakeholder submitted that the proposed policy undermines Kenya's EV

industrial policy objectives of local manufacturing, job creation, and supply chain development.

Committee Observation

The Committee acknowledged the concerns raised by KAM and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of Electric Buses. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 31(a)(ix)

642. Delete or amend the proposal under the new Paragraph 170 that seeks to exempt the supply of goods for the direct and exclusive use in the implementation of infrastructure projects undertaken under a public-private partnership framework to be zero-rated.it is the view of the stakeholder that the proposal is likely to negatively impact the local steel, building materials, mining, and construction sectors by creating market distortions and an uneven competitive environment.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31(b)(i)

643. KAM proposed clarity that payment processing, merchant settlement, gateway aggregation, and related digital payment infrastructure services supplied as part of financial transaction processing or payment facilitation services remain VAT exempt were forming part of financial intermediation services. It is the view of the stakeholder that the existing exemption framework recognises financial intermediation and payment processing services as exempt financial services. Further, KAM stated that the proposal may also increase embedded transaction costs within digital financial ecosystems where input VAT recovery is restricted.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and recommends the amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related

transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32 (a)

644. Delete the proposal because its introduction will push local manufacturers to transfer the higher production costs to consumers, making local manufacturing disadvantageous and less competitive, in both the local market and exports.

Committee Observation

The committee agreed with KAM to delete the proposal.

Clause 34

645. Delete the proposal as it will render the locally assembled telephones uncompetitive in the Kenyan market. Further, the stakeholder stated that the amendment may also create transitional uncertainty for devices imported or manufactured before commencement where excise duty has already been accounted for under the existing framework, but activation occurs after the effective date.

Committee Observation

The Committee agreed with the stakeholder that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 35

646. Delete the proposal since the proposed activation-based framework introduces a materially different excise administration and compliance model requiring operational coordination across telecom operators, importers, manufacturers, distributors and device-financing platforms.

Committee Observation

The Committee acknowledged the concerns raised by KAM and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise

duty has not been paid. Therefore, the committee resolved to delete the proposal.

Clause 36 (a) (i)

647. Delete the proposal increasing the excise duty rate on telephones from 10% to 25% and extend the scope to locally manufactured or assembled phones. It is the view of the stakeholder that the proposal may increase device pricing and affordability pressure for low-income and first-time smartphone users. Further, the proposal may also create competitive distortion between compliant formal sector assembly operations and informal or non-compliant supply channels operating outside equivalent tax, compliance and consumer protection frameworks.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 36 (a) (iv)

648. Delete the proviso since small independent brewers whose production volume does not exceed 150,000 litres per month will be charged excise duty at Ksh. 22.50 per centilitre of pure alcohol as the other players. This would result in job losses and slow growth of the industry.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that removing the preferential excise duty rate for licensed small independent brewers would increase production costs and retail prices, making licensed products less competitive. The Committee further noted that the proposal could drive production and consumption toward unregulated and illicit brews, resulting in revenue losses, increased public health risks, and adverse social and economic consequences. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 36 (a) (v)

649. Amend the proposal by deleting the words "*purchased by licensed manufacturers*" which could be interpreted as broadening both the scope of persons permitted to access undenatured ENA and the scope of persons liable to excise duty on ENA. The stakeholder submitted that the amendment may weaken the explicit linkage between

undenatured ENA and licensed alcohol manufacturers, thereby increasing risks relating to traceability, regulatory oversight, illicit alcohol production, and revenue leakage.

Committee Observation

The Committee acknowledged the concerns raised by KAM but noted that, although the proposed amendment was intended to clarify that extra neutral alcohol used in the manufacture of spirituous beverages qualifies for the special excise duty rate whether imported or locally purchased, the current drafting inadvertently deletes the reference to licensed manufacturers of spirituous beverages, who are the intended beneficiaries. The Committee was therefore of the view that the provision should be deleted from the Bill to avoid ambiguity, as the intended clarification can be addressed administratively.

Clause 36 (a)(viii)

650. Delete the proposal to make local products more competitive over imports and boost local industries.

Committee Observation

The Committee considered the concerns raised by KAM and agreed that deleting the word "imported" from the excise duty provisions on sugar confectionery would extend the tax to locally manufactured products, increasing production costs and reducing the competitiveness of local manufacturers against imports from regional free trade areas. The Committee further noted that the proposal could lead to business closures, job losses, and reduced government revenue, while adversely affecting manufacturers that rely on imported raw materials such as refined sugar and liquid glucose, which already attract various import taxes and levies. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 36 (a) (xiii) – (xxxiii)

651. Delete the proposals as it will invite retaliatory measures by EAC Partner States against Kenyan exports, be subject to challenge at the East African Court of Justice (under Article 30 of the Treaty), and also undermines Kenya's leadership position in the EAC integration agenda. The stakeholder also stated that removal of the EAC origin carve-out is a direct breach of Articles 5, 75 and 76 of the Treaty for the Establishment of the East African Community (1999) and the Protocol on the Establishment of the East African Community Customs Union (2004).

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 36 (a) (xix)

652. Amend the First Schedule to remove the excise duty of 35% of customs value or Kshs. 500 per SQM on tariff heading 7005. According to the stakeholder, HS Code 7005 pertains to float glass, a raw material used in further value addition to create toughened or laminated glass, classified under HS Code 7007, double glazed glass of 7008, mirrors of 7009 and windscreen of 8708.22. Currently, there are no domestic manufacturers of float glass in Kenya, making it essential to import this material. Thus, higher pricing significantly increases raw material costs for Kenyan processors, forcing upward pressure on finished product prices. This directly affects construction costs, including residential housing, commercial buildings, and infrastructure projects

Committee Observation

The Committee acknowledged the concerns raised; However, it observed that the proposal is a consequential clean-up aimed at aligning the tax base from customs value to excisable value and adjusting the specific rate in line with the revised definition of imports that excludes goods originating from EAC Partner States under the Rules of Origin. The Committee further noted that this alignment ensures consistency in the excise duty framework, eliminates potential inconsistencies in valuation, and promotes coherence in the application of tax provisions across the regional trade regime.

Clause 36(a)(xviii)

653. Delete the proposal as the imported print ink under the tariff codes are used by local manufacturers to import finished printing inks used in the different production processes, specifically packaging materials and labels.

Committee Observation

The Committee acknowledged the concerns raised by KAM. However, it observed that the proposal is a consequential clean-up aimed at aligning the tax base from customs value to excisable value and adjusting the specific rate in line with the revised definition of imports that excludes goods originating from EAC Partner States under the Rules of Origin. The Committee further noted that this alignment ensures consistency in the excise duty framework, eliminates potential inconsistencies in valuation,

and promotes coherence in the application of tax provisions across the regional trade regime.

Clause 36 (a)(xxxv)

654. Amend the proposal seeking to impose excise duty on articles of plastic of tariff heading 3923.30.00 and 3923.90.90 at the rate of 10% to apply only on imported articles of plastic. KAM submitted that introduction of excise duty on articles of plastics both local and imports disadvantages local manufacturers and increases the cost of locally produced packaging materials by approximately 10%. Further, the excise duty increases the cost of locally manufactured goods against finished packaged imports that are not charged an excise duty on their packaging materials, hence making local products uncompetitive.

Committee Observation

The Committee noted the concerns of KAM and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 36 (a)(xxxv)

655. Delete the proposed excise duty of 5% on coal as frequent changes in tax treatment undermine predictability and create uncertainty for businesses operating in the industry. Further, KAM stated that Kenya continues to impose higher taxes on coal imports than the other East African Community (EAC) region. This disparity is significant given that coal remains a key input in clinker and cement production, directly impacting the competitiveness of local manufacturers

Committee Observation

The Committee acknowledged the concerns raised by KAM but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

Clause 36(a)(ii) and 36(a)(xxxv)

656. Delete the proposal on key taxes on fruit juices as it will be a direct increase in manufacturing that will eventually be passed on to consumers. According to the stakeholder, higher retail prices will make the juices less affordable, and in turn less revenue generation, margins shrink for the manufacturers.

Committee Observation

The Committee acknowledged the concerns raised by KAM but ultimately supported retaining the excise duty increase. On the specific concern regarding harm to the agricultural value chain, the Committee noted that the public health objective of discouraging consumption of sugar-sweetened beverages took precedence.

Clause 41

657. Amend the proposal by inserting a new sub-section to read:

i) *"tax benefit" excludes the use of any provision of the tax Acts in accordance with its plain meaning,*

ii) *the burden of proof of avoidance rests on the Commissioner, and a binding ruling under section 65 of the Tax Procedures Act is a complete defence.*

658. It is the stakeholder's view that without these clarifications, the new GAAR is dangerously broad and the definition of "*tax benefit*" captures any reduction in tax, postponement of tax, or claim of input VAT.

Committee Observation

The Committee acknowledged the concerns by KAM but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 44

659. Delete the proposal because the proposal is an unjust enrichment and offends the fundamental tax-policy principle against double taxation.

Committee Observation

The Committee agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 45

660. Delete the proposal because it effectively permits the Commissioner to recover disputed taxes even where the matter is still pending before a higher court, contrary to the principle of sub judice and the taxpayer's right to be heard. Further, it is the stakeholders view that the amendment may also prejudice taxpayers by causing financial hardship or business disruption before a final judicial determination is made.

Committee Observation

The Committee agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 47

661. Delete the proposal because taxpayers will be required to pay import VAT in cash at importation, even where they have available tax credits or overpaid taxes on their ledger. Further, this will negatively impact cash flow for import-intensive businesses, particularly those with persistent VAT credits or pending refunds.

Committee Observation

The Committee considered the concerns raised and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with KAM and recommended deletion of the proposal.

Clause 49

662. Delete the proposal since it raises concerns about procedural fairness, as taxpayers may be disadvantaged by deadlines falling on weekends or holidays.

Committee Observation

The Committee agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of

missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore recommended deletion of the proposal.

Clause 55 (a) (ii) and (b) (ii)

663. Amend the proposal by inserting a new proviso to exempting IDF and RDL only to components, raw materials, spare parts and production inputs imported for direct use in the local assembly or manufacture of mobile phones. According to the stakeholder, the proposal creates a structural cost imbalance between imported finished devices principle and assembled phones and may weaken the competitiveness previously supporting domestic assembly, manufacturing and value addition within Kenya's smartphone sector.

Committee Observation

The committee noted the concerns of KAM and resolved to delete the proposal from the Bill.

NEW PROPOSAL

Income Tax Act, Third Schedule-Head B

664. Amend the section to read as follows:

The individual rates of tax shall be—

Monthly Income Band (Ksh) Rate in each shilling

Monthly Pay Bands	***(Ksh)***	***Rate of Tax (%)***
On the first	*Ksh. 30,000*	*10%*
On the next	*Ksh. 8,333*	*20%*
On the next	*Ksh. 461,667*	*25%*
On the next	*Ksh. 300,000*	*27.5%*
On amounts over	*Ksh 800,000*	*30%*

665. Further, it is the view of the stakeholder that the amount of personal relief prescribed in paragraph 1, Head A of the Third Schedule should be increased to Ksh. 3,000 thus setting the monthly tax-free threshold at Ksh. 30,000. The review of the personal income tax bands would address its progressivity and harmonize the personal income tax top rate with the corporate income tax rate.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concern raised by KAM.

Income Tax, Third Schedule-Head B

666. Amend the Section to reduce the corporate tax rate from 30% to 25% so as to enhance Kenya's competitiveness as an investment destination and encourages local and foreign investment.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

VAT Act, Section 2

667. Amend the definition of "input tax" in section 2 of the VAT Act to read as follows:

"input tax" means either

a) tax paid or payable on the supply to a registered person of any goods or services to be used by them for the purpose of their business; or
b) tax paid or payable by a registered person on the importation of goods or services to be used by them for the purposes of their business.

668. The stakeholder stated that replacing "and" with "or" cures the definitional defect; restores the position that economically equivalent supplies are equally treated; and updates the language consistent with current legal drafting practice.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

VAT Act, Section 33A

669. Amend by inserting a new provision that will charge a reduced VAT rate of 8% on raw materials used in manufacturing, applicable equally to both imported and locally sourced raw materials, to reduce the accumulation of excess input VAT credits. According to the stakeholder, this would be applicable equally to both imported and locally sourced raw materials, to reduce the accumulation of excess input VAT credits.

Further, the stakeholder submitted that introducing a reduced VAT rate of 8% on raw materials used in manufacturing will reduce the buildup of input VAT credits within the production chain and consequently lower the volume and value of refund claims submitted to KRA.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

VAT Act, First Schedule

670. Amend the First Schedule of the VAT Act to exempt inputs and raw materials used to manufacture food supplements. These include items under items - 3502.20.00 - Whey Protein Concentrate (WPC) 80%; 2925.29.00 - Creatine Monohydrate; 1702.90.00 - Maltodextrin DE 10-12; 3504.00.00 - SOYA Protein Isolate & Advapep Collagen; 1109.00.00 - Wheat Gluten; and 1805.00.00 - Cocoa Powder. It is the view of the stakeholder that the current taxation structure in the food supplement industry has affected the ability of local products to compete against internationally imported brands which dominate the market.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

VAT Act, First Schedule

671. Amend the First Schedule of the VAT Act to exempt imported raw materials used exclusively for blending lubricants for export markets. The stakeholder stated that the lubricants manufacturing sector in Kenya plays a vital role in industrialization and export development and the current tax framework undermines competitiveness in export markets and discourages investment in the sector.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

VAT Act, First Schedule

672. Amend the first schedule of the VAT Act to exempt VAT on laboratory and equipment under 9011.10.00, 9011.80.00, 9012.10.00, 9024, 9027, 9030, and 9031. It is the view of the stakeholder that the pharmaceutical industry is a highly regulated industry and as such local pharmaceutical manufacturers must consistently invest and

upgrade their equipment (Production & Laboratory) to keep up with current Good Manufacturing Practices (as required by WHO).

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

VAT Act, First Schedule

673. Amend by inserting VAT exempt inputs on the manufacture of sanitary towels. The stakeholder submitted that high cost of these products contradicts the government initiative in ensuring affordability and access to quality menstrual products.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

VAT Act, First Schedule – Paragraph 51

674. Amend the paragraph to zero-rate goods meant for the implementation of official aid-funded projects or charge standard VAT rate. The stakeholder submitted that VAT input by the local manufacturers is not claimable for supplies made to such projects and as such becomes a cost to the manufacturers and a reprieve to importers of finished goods, which are supplied to such projects.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment addresses enforcement gaps arising from the absence of an explicit legal provision, which has allowed inclusion of items such as vehicle spare parts in VAT-exempt Official Aid-Funded Projects, creating risks of abuse and revenue leakage. The Committee further noted that the measure aligns with the National Tax Policy on rationalisation of tax expenditures

VAT Act, First Schedule – Paragraph 145 and 146

675. Amend the paragraphs by removing the thresholds of Ksh. 10 billion under paragraph 145 and Ksh. 2 billion under paragraph 146. Further, the stakeholder submits that capital goods should be extended in the case of upgrades done to existing pharmaceutical manufacturing facilities and construction of new pharmaceutical manufacturing facilities. According to the stakeholder, one of the major lessons learnt from the COVID-19 pandemic, is that health security is important therefore the need to create a vibrant local pharmaceutical and vaccine manufacturing industry.

Committee Observation

The Committee noted the proposal by the stakeholder and the exemption was targeted for an existing purpose and removing the threshold will lead to revenue loss.

VAT Act, First Schedule – Paragraph 146

676. Amend the paragraph to read as follows:

'Such capital goods the exemption of which the Cabinet Secretary may determine to promote investment in the manufacturing sector.

Provided that the value of such investment is not less than two billion shillings.'

677. The stakeholder submitted that this proposal is strategically designed to promote large-scale industrial investments, accelerate industrialization, enhance local production capacity, and position Kenya as a competitive regional manufacturing hub.

Committee Observation

The Committee noted the proposal by the stakeholder and the exemption was targeted for an existing purpose and removing the threshold will lead to revenue loss.

VAT Act, First Schedule – Paragraph 146

678. Amend the paragraph to delete the words '*the exemption was granted before 27th December 2024 and the exemption shall only continue to apply until 27th December 2025.'* The stakeholder submitted that from 1st January 2025, substantial investments have been subjected to VAT which have significantly increased the cost of establishing and expanding industries ultimately weakening the country's attractiveness to investors.

Committee Observation

The Committee noted the proposal by the stakeholder and the exemption was targeted for an existing purpose and continued application is not attainable due to the tight fiscal space.

VAT Act, First Schedule – Paragraph 157

679. Amend the paragraph by introducing VAT of 5% on the imported worn items of clothing of tariff heading 6309. The stakeholder submitted that this can be complemented by a quota-based system anchored on basic consumption needs and will also address revenue losses arising from VAT exemption at the point of sale.

Committee Observation

The Committee noted the proposal by the stakeholder and is in agreement with KAM.

VAT Act, Second Schedule

680. Amend the second schedule of the VAT Act by exempting the following medicines from VAT - 3004.10.00, 3004.20.00, 3004.32.00, 3003.39.00, 3004.41.00, 3004.42.00, 3004.43.00, 3004.49.00, 3004.50.00, 3004.60.00, and 3004.90.00. KAM submitted that with the medicines under these HS Codes falling under VAT exempt status, the cost of medicines increases as manufacturers are not able to claim input VAT on capital expenditure and business operations incurred for use in the local manufacture of medicaments. As such, manufacturers are forced to expend these unrecoverable VAT resulting in increased cost of production in manufacture of medicaments.

Committee Observation

The Committee noted the proposal would significantly expand zero-rating and exemptions across a very broad range of goods, thereby materially eroding the VAT base and increasing tax expenditures beyond levels consistent with the Medium-Term Revenue Strategy. While supporting local manufacturing is important, VAT exemptions are a blunt instrument that often fail to reduce end-user prices but instead create inefficiencies, refund pressures, and opportunities for leakage and misclassification across sensitive medical and food categories. A more targeted approach through existing industrial policy tools, duty remission schemes, and streamlined input VAT refund mechanisms would better support local production without undermining revenue stability and VAT system neutrality. As such the proposal is not supported.

Excise Duty

681. Amend the Act by removing excise duty at the point of manufacturing to the point of sale of the finished product. The stakeholder submitted that this approach would improve cash flow for manufacturers by avoiding upfront tax costs at the production stage, where revenues have not yet been realized. It would also reduce working capital pressures, particularly for capital-intensive industries.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that this exists in law to curb counterfeit products in the market, fake excise stamps and ensure end-user protection.

Excise Duty

682. Amend the Act to exclude exports from the scope of excise duty. It is the view of the stakeholder that exports should remain tax neutral. KAM further stated that under

internationally accepted tax principles, exports are generally treated as tax-neutral transactions to enhance the competitiveness of domestic products in foreign markets. The imposition of excise duty increases the cost of locally manufactured goods in international markets and undermining Kenya's export competitiveness.

Committee Observation

The Committee noted the proposal by KAM and undertook to consider it in future legislation.

Excise Duty, First Schedule

683. Amend by adding to the First Schedule to the word "Imported" to the Food supplement category in the Excise Act to read as "*Imported Food Supplements*". According to KAM, the food supplement industry in Kenya is nascent and it requires support to enhance its growth and development.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty, First Schedule

684. Amend by deleting the 25% excise duty on kraft liner of tariff heading: 4804.11.00, 4804.31.00, 4804.41.00, 4804.51.00. According to KAM, high taxes on kraft liner have significantly affected Kenya's exports by increasing packaging costs, yet kraft liner used in manufacturing high-performance cartons for exporting horticultural products such as avocadoes is not locally produced, as confirmed by a nationwide independent verification that established Kenya has no capacity to manufacture kraft paper.

Committee Observation

The Committee noted that the proposal would require consultation to confirm the availability of local capacity to produce the product which is in line with government's initiative to support local manufacturers and create employment. The Committee therefore proposed that consultation be done before conclusion of Second Reading of the Bill.

Excise Duty, First Schedule

685. Amend by deleting the 25% excise duty on aluminium alloys (7608.20.00) and exempting the assemblers of compressed air and fluid transfer systems from excise duty with the approval of Ministry responsible for industry. The stakeholder submitted that these aluminum pipes and fittings are patented products and are not manufactured anywhere in the African continent.

Committee Observation

The Committee noted that the proposal is progressive and in line with government initiative to support MSMEs and local manufacturers. The Committee further noted that the proposal would require consultation to confirm the availability of local capacity to produce the product as would support growth of local business and provide employment to Kenyans. This is to be done before conclusion of Second Reading of the Bill.

Excise Duty, First Schedule

686. Amend by deleting the excise duty of Kshs. 7.5 per kg charged on imported sugar excluding sugar imported by pharmaceutical manufacturers and licensed sugar refinery. It is the view of the stakeholder that all registered manufacturers importing white refined sugar for industrial use (1701.99.10) should be exempted from the excise duty in order to ensure Kenyan manufacturers remain competitive and avoid the loss of exports and jobs.

Committee Observation

The Committee noted that the proposal is progressive and in line with government initiative to support MSMEs and local manufacturers. The Committee further noted that the proposal would require consultation to confirm the availability of local capacity to produce the product as would support growth of local business and provide employment to Kenyans. This is to be done before conclusion of Second Reading of the Bill.

Excise Duty, First Schedule

687. Amend by exempting registered paint manufacturers, leather tanners, automotive, plastic manufacturers and ink manufacturers from the excise duty upon recommendation by the Cabinet Secretary responsible for Industry. According to the stakeholder, unsaturated polyester is a raw material in powder coating paint manufacturers, leather tanners, automotive, plastic manufacturers and ink manufacturers. An exemption from excise duty for the raw material will allow growth in the industry and enhance competitiveness of local manufacturing.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty, First Schedule

688. Amend by exempting Saturated Polyester of HS code 3907.99.00 from excise duty for manufacture of biodegradable/ compostable and inks upon recommendation by the Cabinet Secretary responsible for Industry.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty, First Schedule

689. Amend by introducing tariff code 7311.00.10 before imported gas cylinders. According to the stakeholder, the Government introduced excise duty on imported gas cylinders at a rate of 35% to protect local manufacturing of LPG gas cylinders. KAM stated that the Act does not specify the HS code to apply excise duty giving room for misinterpretation affecting other forms of cylinders not locally manufactured, such as oxygen cylinders for medical use and industrial gas cylinders. The introduction of HS code will ensure specific cylinders are restricted from importation without affecting essential services including medical.

Committee Observation

The Committee noted the proposal by KAM and is in agreement with the proposal by KAM.

Excise Duty, First Schedule

690. Amend the 1st Schedule of the Excise Duty Act, to exempt diaper and sanitary towels (3920.10.90) manufacturers from excise duty on polyethylene film. The stakeholder stated that to support consumption of these products, the government should provide duty remission on importation of raw materials including polyethylene film.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted exemptions were provided in 2024.

Excise Duty, First Schedule

691. Amend to exempt PVC edge banding for use by furniture manufacturers from excise duty which includes PVC laminates and PVC edge banding not locally manufactured under HS code 3920.43.90, 3920.10.90 and 3919.90.90. According to KAM, the duty substantially increases the cost of locally manufactured furniture, and its removal would enhance the competitiveness of local furniture manufacturers by lowering production costs.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Miscellaneous Fees and Levies Act Section 2

692. Amend by inserting new definitions to the section in proper alphabetical sequence the definitions of "*finished goods*" *(goods completing manufacturing and ready for end-user sale)*, "*intermediate goods*" *(inputs used in further production)*, and "*raw materials*" *(foundational inputs)*.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Miscellaneous Fees and Levies Act Section 7

693. Delete sub-section (2) and substitute a new sub-section setting the IDF rate for raw materials, intermediate goods and imported plant and machinery of Chapters 84 and 85 at one point five per cent (1.5%) of customs value, and insert a new sub-section (2B) setting the IDF rate for finished goods at three point five per cent (3.5%).

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Miscellaneous Fees and Levies Act Section 8

694. Amend by section by charging Railway Development Levy at 1% for raw materials, intermediate goods and plant/machinery; and 3.5% for finished goods.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Miscellaneous Fees and Levies Act - First Schedule

695. Delete the section charging export and investment promotion levy of 50% or USD 0.32, whichever is higher, on Whole hides and skins, unsplit, of a weight per skin not exceeding 8 kg when simply dried, 10 kg when dry-salted, or 16 kg when fresh, wet salted, or otherwise preserved (4101.20.00). It is the stakeholders view that the local demand for leather exceeds the local supply and due to this, reducing the export levy will encourage exportation of raw hides and skins.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Miscellaneous Fees and Levies Act - Third Schedule

696. Amend the third schedule to remove kraft paper of HS code 4804.21.00; 4804.31.00, 4804.11.00, 4804.29.00 & 4804.39.00 from the list of products attracting a 10% export and investment promotion levy. The stakeholder submitted that imposition of the export and investment promotion levy has significantly increased the cost of production and hence reduced the competitiveness of the Kenyan exports to the region and the world.

Committee Observation

The Committee noted the proposal and further observed that there was need to support local manufacturers and create employment. The Committee therefore proposed that consultation on the matter be done before conclusion of Second Reading of the Bill.

Miscellaneous Fees and Levies Act - Third Schedule

697. Amend the third schedule to remove items under tariff number 72.06; 72.07; 72.13; and 7224 which attract a 17.5% export and investment promotion levy. The stakeholder submitted that the Export and Promotion Levy has made the steel products in the country less competitive, losing significant market share to neighboring countries Tanzania and Uganda, where such rates do not apply.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Tax Procedures Act, Section 47(1)(a)

698. Amend section 47(1)(a) to read:

Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner in the prescribed form —

> *(a) to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes, VAT payable on imports, PAYE, corporation tax, withholding taxes, withholding VAT and import duties;*

699. According to the stakeholder, the current section 47(1)(a) is silent on the specific tax heads against which overpaid taxes may be set off. In practice, KRA has limited offsets to the same tax head, requiring taxpayers to wait for cash refunds before applying overpayments across different tax categories. Further, KAM submitted that these wastes both taxpayers working capital and KRA refund-processing capacity.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Tax Procedures Act, Section 42A (1)

700. Amend the section as follows:

a) *Reduce Withholding VAT rate to 1% and remove it after one year*

b) *Reduce the threshold of value of investment by manufacturers exempt from WHVAT from KShs 2B to KShs 500M.*

701. The stakeholder submitted that reducing the investment threshold from KShs 2B to KShs 500M will ensure that most manufacturers take advantage of this concession as they all suffer from the VAT refunds burden.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Kenya Revenue Authority Act (Cap. 469), Section 16

702. Amend by inserting a new sub-section 16(10) to read as follows:

"All revenues collected by, or due and payable to, the Authority under this Act shall, net of any overpaid taxes under any tax law, be paid into the Consolidated Fund: Provided that —

(a) all revenues collected by the Authority in respect of any fund established under an Act of Parliament shall be paid into that fund after deducting the expenses incurred by the Authority for the collection of such revenue; and

(b) the Authority may retain and directly apply such amounts as may be prescribed, in respect of refund adjustment accounts, overpaid taxes, or other statutory refund mechanisms, towards the settlement of approved refunds or authorised offsets under any tax law, without first paying such amounts into the Consolidated Fund."

703. According to KAM, the proposed sub-section gives KRA the explicit statutory authority to operate refund and offset adjustment accounts directly, without round-tripping through Treasury, thereby eliminating a major source of friction and improving the cash-flow position of exporters. This is consistent with international practice (UK HMRC, SARS, IRAS) and with the Ease of Doing Business indicators on paying taxes.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

Public Finance Management Act, 2012, Section 17

704. Amend by inserting a new subsection 17(8) to read as follows:

"Notwithstanding any other provision of this section, the Kenya Revenue Authority may, where authorized by any written law, retain and directly apply amounts collected in respect of refund adjustment accounts, overpaid taxes, or other statutory refund mechanisms, towards the settlement of approved refunds or authorized offsets under any tax law, without first paying such amounts into the Consolidated Fund."

705. The stakeholder submitted that the proposal preserves the Consolidated Fund principle (and Treasury's overall control of public finance) while creating a precise, statutorily-bounded exception for refund and offset mechanisms expressly authorized by other tax laws.

Committee Observation

The Committee noted the proposal by KAM. The Committee further noted that the proposal would require further research and stakeholder consultation.

3.3.18 TELE NETWORKS KENYA

NEW PROPOSAL - Miscellaneous Fees and Levies Act

706. Adopt the proposals below to be part of the Bill

LIST OF RAW MATERIALS FOR MANUFACTURING				
FULL HS CODE	**RAW MATERIAL**	**Brief description of the use of the material: final product, packaging, printing, and manufacturing of auxiliary products**	**Current Duty Rate**	**Proposed**
39204310	Unprinted Plastic Sheets	SIM Cards & Smart Cards	10%	0%
85423100	Pre-personal chip modules	SIM Cards/ Smart Cards	10%	0%
LISTOF MATERIALS FOR SMART PHONES AND SMART DEVICES				
85176200	Routers, MiFi Devices	This is Finished Product Direct import	0%	25% Customs and 10% excise same as Smart Phones

LIST OF RAW MATERIALS FOR MANUFACTURING				
85171200	KYC gadgets & other wireless devices	This is finished product Direct import	0%	25% customs and 10% same as Smart phones
85340000	SKD/CKD Parts for Assembly of Smart Phones Devices	To Manufacture Smart Phones & Devices	0% Customs duty but Vat charged at 16% on SKD Parts but Finished products exempted from VAT	VAT should be exempted on all SKD/CKD imports to avoid the VAT refund claims since the finished products are already VAT exempted

Committee Observation

The Committee noted the proposal by Tele Networks. The Committee further noted that the proposal would require further research and stakeholder consultation.

3.3.19 COMPLY INDUSTRIES LIMITED, BIASHARA MASTER SAWMILL LIMITED, LOSOGWA SAWMILLS, PRIMEPLY INDUSTRIES KENYA LIMITED, AND BROOKSIDE TIMBER - KAM

NEW PROPOSAL

Excise Duty Act - Imported Timber and Timber Products

707. Impose a levies and duty of not less than 30% on imported wooden boards, timber and timber products. They noted that the sector faces a myriad of challenges from trade diversion and tariff Arbitrage, disproportionate input costs, asymmetric fiscal incentives and dumping of substandard goods. The tariff intervention will curb predatory import practices and level the market field.

Committee Observation

The Committee noted that the proposal is progressive and in line with government initiative to support local manufacturers and create employment. The Committee therefore noted that there was need for consultation to confirm the availability of local capacity to produce timber products. This is to be done before conclusion of Second Reading of the Bill.

3.3.20 TRANSFORM HEALTH / KELIN KENYA

Clause 2(b)

708. Amend the proposal by providing that merchant service and interchange fees associated with public health financing, SHA claims, public facility payments, and approved digital health platforms should be exempt or subject to a lower rate. Transform Health cited that taxing merchant and interchange fees may increase transaction costs for patients, facilities, and digital health providers.

Committee Observation

The Committee noted the concerns raised by Transform Health but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. Therefore, the proposal was not supported.

Clause 2 (c)

709. Amend the proposal by inserting a provision exempting or providing preferential treatment for software, licenses, maintenance, training and support services procured for approved public health digital systems under the Ministry of Health or Digital Health Agency. The stakeholder submitted that the proposal in Clause 2 of the Bill may increase the cost of accessing digital healthcare solutions. Transform Health proposed that the following proviso be inserted: -

"For purposes of this Act, payments made in respect of software, digital platforms, licences, maintenance, technical support or digital infrastructure used for public health purposes and approved by the Ministry responsible for health or the Digital Health Agency shall not be subject to additional tax treatment applicable to commercial digital marketplaces."

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 2(c)

710. In the interpretation of '*digital platform*', define a separate category for public-interest digital health platforms telemedicine platforms. The definition should exempt platforms approved by the Digital Health Agency or Ministry of Health from broad digital marketplace taxation where services are linked to Universal Health Care (UHC) or public health.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 4

711. Amend the proposal by providing a targeted exemption or reduced withholding tax for non-resident technical services directly supporting approved public health digital systems, including Health Information Exchange (HIE), Electronic Medical Records (EMRs), Taifa Care, cybersecurity and health data platforms. Transform Health submitted that many digital health platforms rely on foreign cloud hosting, software vendors, cybersecurity firms, and technical support providers.

Committee Observation

The Committee acknowledged the concerns raised but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures and implementation can be addressed administratively without weakening the proposed framework.

Clause 31(ix) Paragraph 161

712. Transform Health welcomed the proposal to exempt Items in Paragraph 161 but proposed that a complementary provision be added to allow VAT relief for digital systems used for pharmaceutical supply chain tracking, Logistics Management Information System (LMIS), traceability and inventory visibility. The stakeholder cited that without digital investment, pharmaceutical supply chains remain weak.

Committee Observation

The Committee acknowledged the concerns raised by Transform Health and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023, to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 31(ix) Paragraph 163

713. Amend the proposal to zero rate devices and wireless network equipment procured for approved digital health purposes, including tablets, Community Health Workers (CHW) devices, biometric tools, routers, facility connectivity equipment and telemedicine kits.

Committee Observation

The Committee acknowledged the concerns raised and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 31(ix) Paragraph 170

714. The stakeholder supported the proposed move to exempt supply of goods used in implementation of infrastructure projects undertaken under the Public Private Partnership framework. To ensure the health sector benefits, the stakeholder proposed that the Bill explicitly include digital health infrastructure, health facility connectivity, health data exchange infrastructure and public health data platforms within qualifying public infrastructure projects. Specifically, the stakeholder proposed the insertion of the proviso below;-

'Expenditure incurred by a person, public entity or approved provider for the development, integration, certification or maintenance of health information exchange systems, shared health records, electronic medical record integration, health data standards or cybersecurity for health systems shall qualify as an allowable deduction'

Committee Observation

The Committee noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended retention of the proposal.

Clause 34

715. Delete the proposal as excise duty on phones and wireless devices may increase the cost of digital health rollout, especially for counties, Community Health Promoters (CHPs), health facilities and patient-facing services. Alternatively, provide a refund mechanism for devices procured through Ministry of Health, counties, Digital Health Agency (DHA) or donor-supported public health Programmes.

Committee Observation

The Committee acknowledged the concerns raised by Transform Health and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively

affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended the deletion of the proposal.

Clause 35

716. Delete the proposal as excise duty on phones and wireless devices may increase the cost of digital health rollout, especially for counties, Community Health Promoters (CHPs), health facilities and patient-facing services. Alternatively, provide a refund mechanism for devices procured through Ministry of Health, counties, DHA or donor-supported public health Programmes.

Committee Observation

The Committee acknowledged the concerns raised and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(i)

717. Delete the proposal as excise duty on phones and wireless devices may increase the cost of digital health rollout, especially for counties, Community Health Promoters (CHPs), health facilities and patient-facing services. Alternatively, provide a refund mechanism for devices procured through Ministry of Health, counties, DHA or donor-supported public health Programmes.

Committee Observation

The Committee agreed with the concerns raised by Transform Health and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 48(3)

718. Amend the proposal by adding the following proviso after the proposed new Subsection (3)

'A taxpayer shall not be liable to a penalty where failure to comply arose from an electronic tax system failure, verified public digital platform outage, internet connectivity failure, or error generated by a government electronic system provided the taxpayer takes reasonable steps to comply as soon as practicable.'

Committee Observation

The Committee acknowledged the concerns raised but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

NEW PROPOSAL – Excise Duty Act and Miscellaneous Fees and Levies Act

719. Insert a new exemption under the relevant VAT, Excise Duty and Miscellaneous Fees and Levies Schedules as follows:

"*Devices, equipment and accessories imported or locally purchased for approved digital health purposes, including tablets, biometric devices, routers, servers, telemedicine equipment, facility connectivity equipment and devices used by community health workers, upon approval by the Ministry responsible for health or the Digital Health Agency*."

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation.

3.3.21 NAIROBI SECURITIES EXCHANGE (NSE), KENYA ASSOCIATION OF STOCKBROKERS AND INVESTMENT BANKS (KASIB), REITS ASSOCIATION OF KENYA (RAK), CUSTODIANS' ASSOCIATION, CENTRAL DEPOSITORY AND SETTLEMENT CORPORATION OF KENYA (CDSC), ASSOCIATION OF PENSION TRUSTEES AND ADMINISTRATORS OF KENYA (APTAK) AND KENYA NATIONAL REIT (KNR)

Clause 22(a)

720. Amend the proposal to introduce a new (g) in paragraph 2 to re-introduce a listing incentive to encourage more companies to list and raise long-term capital through public markets as follows:

"In the case of a company newly listed on any securities exchange approved under the Capital Markets Authority Act with at least twenty percent of its issued share capital listed, fifteen percent for the period of ten years commencing immediately after the year of income following the date of such listing."

Committee Observation

The Committee acknowledged the concerns raised by the stakeholders but observed that the proposed amendment repeals the preferential corporation tax rate of 15 percent for qualifying housing developers to address revenue leakage and ensure that tax incentives are better aligned with the intended housing policy objectives.

Clause 40

721. Noting that the proposal seeks to align the provision with the Tax Procedures Act by extending the PIN exemption framework to regulated financial services intermediaries currently omitted from the proposal, amend the proposal to include "financial institution" after the words "investment bank".

Committee Observation

The Committee noted the submission and adopted the proposal.

NEW PROPOSALS

Stamp Duty Act

722. Amend paragraph 10 of the Schedule to the Stamp Duty Act to transition to a uniform percentage-based framework at 0.02% contract note for or relating to the sale or purchase of any stock or marketable security. This would create a more equitable transaction cost structure across market while simplifying administration and improving predictability for investors.

Committee Observation

The Committee noted that replacing the current fixed stamp duty charge with a uniform ad valorem rate of 0.02% would create a more equitable and proportionate tax burden across all investors, particularly benefiting retail investors undertaking low-value transactions. Further, the amendment would align transaction costs with the value of the trade, enhance transparency and simplicity in tax administration, and support broader participation in the capital markets. By reducing the relative cost of small trades, the proposal could deepen market liquidity, promote financial inclusion, and support the growth and competitiveness of the Nairobi Securities Exchange.

Income Tax Act, Section 2

723. Amend section 2 of the Income Tax Act to expand the definition of "infrastructure bond" to include both government and non-government issuers that would unlock private capital for critical infrastructure, deepen the bond market and reduce pressure on public finances.

Committee Observation

The Committee noted that broadening the definition of infrastructure bonds would dilute the intended policy objective of infrastructure bonds as a targeted government financing instrument, and may create classification ambiguity and potential tax abuse through re-labelling of private debt instruments as "infrastructure bonds." The current framework already balances capital market development while safeguarding revenue integrity and ensuring predictability in tax policy. As such the proposal was not supported.

Retirements Benefits Act

724. Noting that there is no specific limit provided for pooled funds asset class and Shariah-compliant asset classes, amend the Retirements Benefits Act to diversify investments, mitigate concentration risk and offer Shariah-compliant and ethical options as follows:

"Provide for a pooled fund asset class at 50% where pension funds can invest.
Creation of Shariah compliant asset Class"

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation.

Retirements Benefits Act

725. Amend the Retirements Benefits Act to regulate trust funds established from pension and death benefits from the scheme which currently exist but outside the ambits of RBA. Hence, introduce a new section (5)(aa) to "regulate and supervise the establishment and management of trust funds".

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation.

3.3.22 ASSOCIATION OF CERTIFIED CHARTERED ACCOUNTANTS (ACCA) KENYA

Clause 2(c)

726. Delete the proposal in its entirety because it may undermine tax certainty and the rule of law by effectively reversing a Supreme Court decision through legislation. It could also increase compliance and operational costs, raise the cost of financial services, create double taxation risks, discourage digital and fintech investment, and impose cashflow challenges on businesses operating on low profit margins due to delayed tax refunds.

Committee Observation

The Committee accepted the ACCA's proposal in line with international best practices. The Committee, therefore, recommended its deletion.

Clause 16

727. Amend the proposal to be a maximum of thirty percent (30%) as opposed to the proposed at least sixty percent (60%) of that part of the income because the proposal to deem retained earnings above 30% as dividends may adversely affect business cashflows, particularly where earnings are legitimately retained for operational needs, business growth, and expansion. further, introducing a clear ceiling would provide taxpayers with certainty and enable informed medium-term financial and operational planning.

Committee Observation

The Committee acknowledged the concerns raised and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18(a)

728. Delete the proposal as requiring taxpayers to file tax returns within 4 months especially if tax filing systems have challenges, is not a feasible option. This also increases the burden from a compliance perspective not just for auditors but for businesses too.

Committee Observation

The Committee acknowledged ACCA's concerns and noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19(a)(i) and (ii)

729. Delete the proposal because it would concentrate multiple tax compliance obligations within a single month, placing significant administrative and financial strain on businesses and diverting focus from core operations. Given the limited compliance

capacity of many businesses, particularly in the informal sector, and existing weaknesses in supporting systems infrastructure, the changes may increase compliance challenges rather than improve tax administration.

Committee Observation

The Committee noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22(a)

730. Delete the proposal as retaining the 15% preferential tax rate supports implementation of the constitutional right to accessible and adequate housing under Article 43(1)(b) and aligns with the objectives of the Affordable Housing Act, 2024. The reduced rate helps bridge the viability gap in affordable housing projects, where regulated price ceilings limit developer margins, making projects commercially sustainable. Further, the incentive serves as a base-broadening measure by encouraging more housing projects, thereby generating additional corporation tax, PAYE, Housing Levy, and related economic activity that may not arise if the higher 30% rate discourages investment.

Committee Observation

The Committee acknowledged the concerns raised by ACCA but observed that the proposed amendment repeals the preferential corporation tax rate of 15 percent for qualifying housing developers to address revenue leakage and ensure that tax incentives are better aligned with the intended housing policy objectives.

Clause 28

731. Delete the proposal as it reintroduces the pre-Finance Act, 2025 position, extending the recovery period for output taxes to three years, which may delay tax recovery and strain business cashflows. Frequent policy reversals within short periods also undermine tax certainty and are inconsistent with the Medium-Term Revenue Strategy and National Tax Policy objective of maintaining stable tax laws over a 3–5 year period.

Committee Observation

The Committee acknowledged the concerns raised but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk

premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion and recommended retention of the proposal.

Clause 31(b)(i)

732. Amend the proposal to read as follows;

(b) the issue, transfer, receipt or any other dealing with money, including —

(i) money transfer services,

(ii) accepting over the counter payments of household bills, and

(iii) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money.

733. It is the stakeholder's view that imposing VAT on payment service providers and digital payment platforms may increase the cost of doing business, with the burden likely passed to consumers or absorbed by businesses. This could discourage use of transparent digital payment systems and incentivize a return to cash transactions, thereby undermining transaction traceability and tax compliance efforts.

Committee Observation

The Committee recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31(a)(vii)

734. Delete the proposal as the VAT exemption on affordable housing construction materials helps keep unit prices affordable by preventing an estimated 8–10% increase in housing costs, given that construction inputs account for a significant share of build costs. The exemption is project-specific, traceable, and auditable under existing

Treasury guidelines, limiting abuse while supporting targeted housing delivery. Additionally, the incentive sustains demand for locally manufactured construction materials, supporting domestic industry and the manufacturing objectives under the Kenya Kwanza agenda.

Committee Observation

The Committee noted the concern raised by ACCA and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 42

735. Delete the proposal as it may result in assessments based on incomplete or unreliable data, particularly in an economy with a large informal sector and uneven adoption of systems such as eTIMS. Any assessment should therefore be grounded on accurate and verified information**,** and subjected to senior-level review before being issued to taxpayers.

Committee Observation

The Committee acknowledged ACCA's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

736. Delete the proposal because the provision was introduced under the Finance Act 2025 and changing the position back shows inconsistency in our tax laws.

Committee Observation

The Committee considered the concerns raised by ACCA and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

737. Delete the proposal as it may allow KRA to enforce recovery measures on disputed taxes before appeals are concluded, undermining the right to fair administrative action and access to justice. This could expose taxpayers to financial hardship, reputational damage, and operational disruption despite pending appeals. The proposal also raises concerns about aggressive enforcement of potentially flawed assessments, contrary to principles of procedural fairness affirmed in *Katahira & Engineers International Limited v Kenya Revenue Authority*.

Committee Observation

The Committee considered the concerns raised and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 49

738. Delete the proposal given that it would create uncertainty and instability in the tax regime, contrary to the principles of predictable taxation and the National Tax Policy, especially given its recent introduction under the Tax Procedures (Amendment) Act, 2024. Reverting from working days to calendar days would also reduce the time available for taxpayers to lodge objections and appeals, placing additional strain on taxpayers with limited resources and ongoing business obligations.

Committee Observation

The Committee agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with ACCA and recommended deletion of the proposal.

Clause 51(b)

739. Amend the proposal to increase the limit to ten million shillings instead of two million shillings proposed so as to simplify the bureaucracy within the system which is being faced by compliant taxpayers.

Committee Observation

The Committee acknowledged the concerns raised by ACCA but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

3.3.23 WECARE CBO

Clause 2 (c)

740. Delete the proposal because it is highly likely that this proposal is informed by the recent Supreme Court decision in the case of *Barclays Bank of Kenya Limited (now Absa Bank Kenya plc) v Commissioner for Domestic Taxes (Large Taxpayers Office)*, where the apex Court held that payments made by Acquiring Banks to Card Companies do not constitute royalties. Further, the stakeholder submitted that the proposal contradicts OECD Model Tax Convention Article 12 commentary, which limits "royalties" to payments for IP rights and not operational network access fees.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 3 (a)

741. Amend by proposal by reducing the minimum qualifying period from 3 years to 1 year for employees under 35 and registered PWDs. It is the view of the stakeholder that the 3-year threshold is structurally discriminatory to young people and persons with disabilities.

Committee Observation

The Committee acknowledged the concerns raised by WeCare but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 3 (b)

742. Accept the proposal however there should be a clear understanding that where such contributions are made to a registered pension scheme, the applicable limit is not 31% of the basic salary, but Three Hundred Sixty Thousand (KES 360,000/=) in a year of income.

Committee Observation

The Committee acknowledged the concerns raised but noted the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 18 and 19

743. Delete the proposals as it increases compliance costs, particularly for companies with complex affairs since it is likely that additional resources would need to be deployed to meet the timeline.

Committee Observation

The Committee noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22 (b) (x)

744. Amend the proposal to exempt scrap metal sellers earning below KSh.100,000 per year from withholding. The stakeholder submitted that this change is likely to increase the cost for scrap metal businesses because they can no longer recover input VAT on goods and services used in operations. Further, these higher costs are likely to be passed on, raising prices and reducing the competitiveness of the local recycling and metal industry.

Committee Observation

The Committee acknowledged the concerns raised by WeCare but was of the view that the proposed amendment provides a clear legal basis for taxing income from the sale of scrap metal, enhances traceability of transactions, addresses compliance challenges in the informal sector, and promotes fairness and consistency in the tax system.

Clause 22 (b) (y)

745. Accept the proposal as the proposal will mitigate such blanket taxation of winnings in Kenya's gambling industry.

Committee Observation

The Committee noted the concerns raised by WeCare and resolved to harmonize taxation on betting.

Clause 31 (a) (ix)

746. Accept the proposal inserting the new paragraph 158 to the First Schedule as the VAT exemption will directly reduce the cost of dialysis treatment for many Kenyans living with chronic kidney disease, at both public and private hospitals.

Committee Observation

The Committee acknowledged that the exemption for dialyzers is used in kidney dialysis equipment, a measure that will help reduce the cost of health care and improve access to life-saving treatment. Therefore, the committee retained the proposal.

Clause 34

747. Adopt this proposal as it will improve cash flow for distributors and easing pressure on importers holding slow-moving stock.

Committee Observation

The Committee agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. Therefore, the Committee recommended deletion of the proposal.

Clause 36 (a) (i)

748. Amend the proposal seeking to impose a 25% excise duty tax on all cellular network telephones to a maximum of 10% and exempt phones retailing below Ksh. 10,000. It is the stakeholder's view that mobile phones are crucial digital tools for the youth, which are used to access MPESA services, apply for jobs, access content, access education and even run businesses. A 25% excise duty widens the digital divide and greatly burdens the youth and PwDs in low-income areas.

Committee Observation

The Committee agreed with the concerns raised by WeCare and noted that the proposal could undermine digital inclusion, discourage local

assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

3.3.24 INSTITUTE OF ECONOMIC AFFAIRS (IEA)

Clause 2 (b)

749. Delete the proposal as it is an override of the Supreme Court's binding determination in *Barclays Bank of Kenya v Commissioner for Domestic Taxes* (Pet. No. 12 (E014) of 2022) that interchange fees do not constitute management or professional fees.

Committee Observation

The Committee noted the concerns raised by the Institute but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore, the proposal was not supported.

Clause 2(c)

750. Delete subparagraph (a)(vii) and (b) and retain the existing royalty definition. Any digital-economy charge should be effected through a calibrated review of the Significant Economic Presence Tax under Section 12E aligned to the OECD/UN Pillar One framework, rather than through an expansion of the royalty concept that conflicts with Kenya's treaty obligations.

Committee Observation

The Committee noted the concerns raised by IEA but took an alternative view on (a) (vii), but supported the deletion of (b).

Clause 2(d)

751. Delete the proposed amendment to the definition of 'withdrawals' since it becomes redundant once the withholding base shifts to winnings.

752. Further, the Committee should also commit, by way of accompanying resolution, to a three-year legislative moratorium on further amendment to the gaming-tax base.

753. IEA submitted that frequent statutory amendments to definitional terms in a narrow sector, three substantive changes in three successive Finance Acts, generates the form

of regime uncertainty under which firms reduce irreversible investment. Further, retaining the redundant "withdrawals" definition alongside a new "winnings" definition compounds the problem by creating two operative concepts where only one is needed for the charging mechanism.

Committee Observation

The Committee noted the concerns raised by IEA. However, it observed that the proposed amendment only broadens the definition of "withdrawals" to ensure the uniform application of withholding tax across both online and land-based betting activities by resolving ambiguity that excludes land-based betting and gaming establishments that operate through cash and cash-equivalent instruments from the tax net, resulting in unequal tax treatment and revenue leakage.

Clause 4

754. Delete the clause in its entirety or amend it before passage to

(i) Specify a charging rate in the Third Schedule, and

(ii) Expressly disapply the existing Section 35 WHT where Section 6B applies, so that the same income is not reached twice by parallel charging mechanisms

755. The stakeholder provided that Article 210(1) of the Constitution provides that no tax may be imposed, waived or varied "except as provided by legislation." A charging provision that delegates the rate to a Schedule, which the same Bill does not amend, fails the constitutional requirement of statutory specification of the essential elements of the tax obligation.

Committee Observation

The Committee acknowledged the concerns raised by IEA but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 6

756. Amend the proposal to extend the timeline to 15 days from the payment receipt or port departure, with a provision for post-departure reconciliation against bunker clearance documentation. IEA submitted that the "whichever is earlier" trigger imposes a hard deadline poorly calibrated to the underlying transactional architecture of international shipping, in which freight is frequently invoiced and remitted after port

departure. The five-day rule forces agents to pre-fund tax remittances out of working capital, presenting a regressive consumption tax on import-intensive sectors of the economy.

Committee Observation

The Committee acknowledged the concerns raised by IEA but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clause 15

757. The stakeholder supported the deletion of Section 23 but proposed that Section 18A of the TPA be amended to introduce four safeguards:

(i) substitute a "sole or dominant purpose" test for "main purpose or one of the main purposes";

(ii) require prior written notice to the affected taxpayer and an opportunity to be heard before any assessment is issued;

(iii) make Section 18A expressly subordinate to specific anti-avoidance rules; and

(iv) introduce a statutory advance-ruling procedure for commercial reorganizations.

758. The stakeholder submitted that procedural safeguards required by Article 47 of the Constitution and the Fair Administrative Action Act, 2015 should be expressly incorporated into the operative provision rather than left to implication. Without them the provision is constitutionally vulnerable to challenge on procedural fairness grounds.

Committee Observation

The Committee acknowledged the concerns raised but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for administrative consistency. Consequently, the proposed additional safeguards and amendments were not considered necessary.

Clause 16

759. Delete the proposal and retain the provision in the Act but constrain it to statutory thresholds as below: -

(i) the rule should apply only to closely-held private companies (fewer than 25 shareholders);

(ii) deeming should be triggered only where retained earnings exceed five times paid-up capital; and

(iii) reasonable business purposes for retention, including regulatory capital requirements, debt-servicing covenants and announced capital-expenditure programmes, should constitute a statutory safe harbour.

760. IEA submitted that a blunt 60% deeming rule with no objective trigger functions as a tax on retained earnings which is a distortionary form of dividend taxation.

Committee Observation

The Committee acknowledged the concerns raised IEA and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 17(a)(i)

761. Amend the proposal to replace the existing exemption with a narrower one confined to

(i) services that are not available from any resident service provider, and

(ii) services certified or accredited by IATA, ICAO or an equivalent international standard-setting body.

762. Further, apply a five (5) year sunset Clause to permit periodic re-assessments domestic maintenance, repair and overhaul (MRO) capacity develops.

Committee Observation

The Committee agreed that the proposed repeal of the exemption on payments by the national carrier to non-resident service providers would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. The Committee further noted the potential adverse impact on competitiveness and operational efficiency of the national carrier and therefore recommended deletion of the proposal.

Clause 18

763. Amend the proposal to retain the 6-month timeline for taxpayers carrying out business or required to file audited financial statements under the Companies Act,2015 or sectoral legislation.

Apply the four-month timeline only for individual non-business taxpayers and PAYE-only filers.

Apply the one-month nil return rule only to entities that have been dormant for the entire year of income.

764. IEA cited that for taxpayers subject to statutory audit or to sectoral regulatory reporting (CBK, IRA, SASRA, CMA), a four-month window is insufficient to complete audit, board approval, regulatory filings and tax reconciliation. Further, the stakeholder submitted that Commissioner already has sufficient time since they have five years from the date of filing to issue an amended assessment under Section 31 of the TPA.

Committee Observation

The Committee noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22(a)

765. Delete the proposal so as to ensure the law remains consistent with Kenya's treaty obligations and the implementation of the Common Market Protocol.

Committee Observation

The Committee acknowledged the concerns raised by IEA but observed that the proposed amendment repeals the preferential corporation tax rate of 15 percent for qualifying housing developers to address revenue leakage and ensure that tax incentives are better aligned with the intended housing policy objectives.

Clause 23(b)

766. Adopt the proposed extension subject to two essential safeguards:

(i) A 50% materiality threshold consistent with Article 13(4) of the UN Model Convention, under which the gain is taxable in Kenya only where Kenyan-situs assets constitute at least 50% of the value of the transferred shares; and

(ii) An explicit apportionment formula limiting Kenyan taxing rights to the proportion of the gain attributable to Kenyan-situs assets.

767. The IEA submitted that the international consensus is equally clear that the rule must be bounded by a materiality threshold and an apportionment mechanism, failing which the rule will reach gains not economically attributable to the host State and will be unenforceable against treaty partners. Without the 50% threshold, the proposed paragraph 2(d) is over-inclusive: it would apply to any indirect disposal where the offshore target has a Kenyan subsidiary of any value, generating tax exposure incommensurate with the underlying economic nexus and deterring Kenya-touching M&A activity at the regional and Pan-African level.

Committee Observation

The Committee acknowledged the concerns but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for amendment and recommended that the clause be retained.

Clause 22(b)(ii)

768. Amend the proposed new paragraph (y) by reducing the withholding tax on winnings to fifteen percent (15%) from the proposed twenty percent (20%). The IEA submitted that the 20% rate exceeds the personal income tax marginal rate for the median Kenyan bettor and is therefore not a final withholding rate calibrated to taxpayer-level liability; it operates as a punitive sectoral excise.

Committee Observation

The Committee noted the concerns raised by IEA but observed that the proposed amendment reintroduces a 20 per cent withholding tax on winnings from prize competitions and lotteries, thereby closing the gap created by the Finance Act, 2025, removing ambiguity in the tax treatment of such winnings, and promoting certainty and consistent application of the withholding tax framework while safeguarding government revenue.

Clause 25

769. The stakeholder supported the proposal as it improves clarity across the tax system.

Committee Observation

The Committee agrees with the Institute because the proposed amendment removes obsolete and redundant definitions, including references to provisions repealed under the Tax Procedures Act and terms that no longer appear elsewhere in the VAT Act, thereby aligning the statute with the current tax administration framework. The Committee further noted that the clean-up enhances legislative clarity, coherence, and consistency in the application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 26

770. Accept the proposal but refine it to include transitional arrangements, simplified registration procedures, and possible relief measures for smaller or informal operators. This will safeguard both revenue objectives and financial inclusion with modifications to ensure it doesn't impose unintended burdens on small businesses and increase the cost of credit for consumers.

Committee Observation

The Committee acknowledged the concerns raised by IEA but observed that the proposed amendment clarifies the VAT treatment of financial charges by limiting the exclusion to agreements regulated under the Hire Purchase Act, while expressly ensuring that financial charges are included in the taxable value where appropriate to prevent avoidance and ensure consistent VAT treatment of hire purchase arrangements. The Committee further noted that the amendment is intended to address existing ambiguity that has allowed taxpayers to structure sales agreements to resemble hire purchase arrangements and shift value into non-taxable finance charges, thereby reducing output VAT and creating VAT leakage through aggressive contractual structuring and inconsistent application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 27

771. The IEA supported the proposal since it reinforces the core VAT principle of neutrality, where tax should only apply to final consumption and not distort production decisions.

Committee Observation

The Committee observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

772. Reject this proposal because extending refund of tax on bad debts delays the ability of businesses to recover VAT already paid on bad debts.

Committee Observation

The Committee acknowledged the concerns raised by IEA but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion and recommended retention of the proposal.

Clause 29

773. Accept the proposal since it strengthens VAT policy by ensuring that tax is only charged on genuine taxable supplies, thereby reducing fraudulent invoicing and protecting government revenue.

Committee Observation

The Committee considered the proposal by IEA; however, it was of the alternative view.

Clause 30

774. Delete the proposal because removing the anti-avoidance provision would weaken tax enforcement and reduce revenue collection. It would also create unfair advantages for well advised firms over compliant taxpayers.

Committee Observation

The Committee acknowledged the concern raised by IEA but observed that the proposal to repeal the fragmented anti-avoidance provisions in the VAT Act in favour of a unified General Anti-Avoidance Rule under the Tax Procedures Act is a clean-up measure intended to harmonise tax laws, address inconsistencies across statutes, close existing loopholes, and strengthen enforcement consistency and legal certainty. In view of this, the Committee recommended that the clause be retained.

Clause 31(a)(i)

775. Delete the proposal and maintain exemptions on aircraft spare parts as it encourages acquisition of modern, safer equipment by lowering costs, facilitating timely upgrades and compliance with aviation safety standards. It thus reduces accident risks and enhances overall sector reliability.

Committee Observation

The Committee agreed that removing the VAT exemption on aircraft, helicopters, and related equipment would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial aviation services. The Committee therefore agreed with IEA and recommended deletion of the proposal.

Clause 31(a)(ii)

776. The stakeholder supported the proposal citing that is justified as it lowers project operational costs and ensures efficiency in aid-funded projects; thus it supports effective project implementation and service delivery.

Committee Observation

The Committee acknowledged the concerns raised by IEA; however, it adopted an alternative view.

Clause 31(a)(iii)

777. Applying 16% VAT broadens the tax base, improves neutrality, and raises revenue, but may increase operational costs and airfare.

Committee Observation

The Committee acknowledged the concerns raised by IEA; however, it adopted an alternative view.

Clause 31(a)(iv)

778. Delete the proposal and maintain extend VAT exemption status to all registered tourism facilities without limit on acreage. Additionally, the discretion given to the Cabinet Secretary be withdrawn. The IEA submitted that Kenya might lose its competitive edge over its neighbours as tour operators may raise their cost to cater for the additional cost.

Committee Observation

The Committee acknowledged the concerns raised by IEA; however, it observed that it is difficult to verify whether items are exclusively used for the purpose specified in the law. Therefore, the Committee recommended retention of the proposal.

Clause 31(a)(vii)

779. The IEA supported imposing 16% VAT on affordable housing inputs as it broadens the tax base, reduces market distortions, limits misuse of exemptions, enhances revenue mobilization, and improves targeting ensuring benefits reach intended homeowners efficiently.

Committee Observation

The Committee noted the concern raised by IEA and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31(a)(ix)

Paragraph 160 to 168

780. Delete the proposals since exemption raises production costs by blocking input VAT recovery, creating embedded tax, increasing commodity prices and undermining affordability and efficiency in the supply chains.

Committee Observation

The Committee acknowledged the concerns raised by IEA and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers.

Paragraph 169

781. The stakeholder submitted that the proposal in the Bill should be deleted since it imposes VAT at 16% on worn clothing which disproportionately burdens low-income households who rely on affordable alternatives, increasing living costs, reducing welfare.

Committee Observation

The Committee acknowledged the concerns raised but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax.

Paragraph 170

782. Delete the proposal since moving PPP services to exemption will increase project costs by preventing input VAT recovery, creating hidden inefficiencies which might discourage private investment, and reducing value-for-money, ultimately delaying infrastructure delivery and increasing the long-term fiscal burden.

Committee Observation

The Committee noted the concern raised by the Institute and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 33

783. The stakeholder submitted that the Bill proposes to amend Section 2 of the Excise Duty Act by stating that goods originating from an East African Community (EAC) Partner State and meeting EAC Rules of Origin shall not be treated as "imports" for excise duty purposes.

Committee Observation

The Committee noted the proposal by IEA.

Clause 34

784. Delete the proposal since it is complicated and fails the simplicity test.

Committee Observation

The Committee acknowledged the concerns raised by the Institute and agreed that shifting the excise duty tax point on mobile phones to the time

of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(i)

785. Delete the proposal to raise excise duty rate on telephones to 25% citing that excise tax on phones is relatively high.

Committee Observation

The Committee agreed with the concerns raised by the Institute and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 36(a)(iii)

786. Delete the proposal as it is regressive, because it directly impacts household expenses, therefore not a good proposal. Further, IEA submitted that Kenya has no justification for bottled water.

Committee Observation

The Committee noted the concerns raised by IEA but was of the view that the proposed amendment removes excise duty on bottled water to enhance affordability, reduce the cost of water for consumers, and address enforcement challenges associated with the current excise duty framework.

Clause 36(a)(iv)

787. Amend the proposal to reduce the excise rate to Kshs 12.50 per centiliter. The stakeholder submitted that while the excise duty framework is a positive move, all producers should ideally be subject to a uniform tax structure to promote fairness and market neutrality.

Committee Observation

The Committee considered the concerns raised and agreed that removing the preferential excise duty rate for licensed small independent brewers

would increase production costs and retail prices, making licensed products less competitive. The Committee further noted that the proposal could drive production and consumption toward unregulated and illicit brews, resulting in revenue losses, increased public health risks, and adverse social and economic consequences. The Committee therefore agreed with IEA and recommended deletion of the proposal.

Clause 36(a)(vi)

788. The IEA proposed that Parliament should reconsider the proposal since it will lead to increased smuggling.

Committee Observation

The Committee acknowledged the concerns raised by IEA but was of the view that the proposed increase in the excise duty rate on cigars, cheroots and cigarillos is intended to account for inflation, maintain the real value of the tax, and address the negative externalities associated with tobacco products.

Clause 36(a)(xxxv)

789. The stakeholder submitted that the proposal to subject coal to a 5% excise duty was not clear. They proposed that this should be based on the content of emissions (carbon) to the environment.

Committee Observation

The Committee acknowledged the concerns raised by IEA but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

790. The stakeholder submitted that the proposed excise rate of 50% on antique, vintage and classic vehicles was too high. The stakeholder proposed that the Bill be redesigned to provide a lumpsum instead of a percentage.

Committee Observation

The Committee acknowledged the concerns raised by IEA; however, it adopted an alternative view.

791. Further, the stakeholder supported the proposed increase in excise duty rate on fruit juices from 14.14 to 20 per litre citing it will encourage healthier choices.

Committee Observation

The Committee agrees with the Institute and recommends to retain the provision.

Clause 37

792. The stakeholder submitted that the Bill should introduce Virtual Asset to complement the use of Certificate of Origin, gradually shifting fully to Virtual Assets once systems that inculcate attributes from both are in place, and provide a timeline for this to be actualized. According to IEA, the proposal in the Bill replaces Certificate of Origin with Virtual Asset while these two instruments serve different purposes but can complement each other.

Committee Observation

The Committee acknowledged the concerns raised by IEA but observed that the proposed amendment strengthens customs administration by empowering the Commissioner to assess tax based on available information where export declarations are not produced, while allowing the imposition of prescribed administrative penalties. The Committee further noted that the provision introduces flexibility by permitting the Commissioner to waive the export declaration requirement where the exporting country does not issue such documents and authorises the Cabinet Secretary to prescribe acceptable alternative documentation through regulations. The Committee recommended that the amendment take effect on 1st September 2026.

Section 6A of the Tax Procedures Act

793. The stakeholder submitted that the Finance Bill, 2026 had a proposed amendment to Section 6 of the TPA seeking to remove the 2-year period exemption of tax on imports of the said materials for construction purposes. The IEA submitted that whereas it will allow for the importation of such material to aid in construction, it may hurt local producers since the market may realize cheaper building material imports.

Committee Observation

The Committee noted the proposal by IEA. The Committee further noted that the proposal would require further research and stakeholder consultation.

Clause 38

794. The stakeholder supported the proposal but submitted that the proposed new Section 6D of the TPA needs to be reviewed to ensure compliance with Data Protection Act in its entirety, especially in cases of information exchange that traverse borders.

Committee Observation

The Committee acknowledged IEA's concerns but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder concerns.

Clause 39

795. The IEA supported the proposal noting that it allows for continuity in usage of a single PIN instead of creation of a new one from scratch for a previously registered member.

Committee Observation

The Committee supported the introduction of a statutory timeline for determining reinstatement applications, noting that it enhances efficiency, fairness, and certainty in tax administration. The Committee further observed that deemed approval strengthens predictability for taxpayers, while cautioning that broadening the grounds for reinstatement could lead to abuse. In view of this, the Committee recommended amending the provision to provide a ninety-day timeline for determination of applications.

NEW PROPOSALS

Miscellaneous Fees and Levies Act, Section 5

796. Repeal Section 5 to remove the Export Levy. The stakeholder submitted that the export levy increases prices of exports making goods from Kenya uncompetitive in the international market; and there are no sound justifications for raising revenue at the expense of the competitiveness of Kenyan goods, even if for discouraging export of raw materials

Committee Observation

The Committee noted the proposal by IEA. The Committee further noted that the proposal would require further research and stakeholder consultation.

Miscellaneous Fees and Levies Act, Section 7A

797. Repeal Section 7A to remove the Export and Investment Promotion Levy citing that the levy reveals protectionist tendencies and increases the prices of imported goods, hurting consumer welfare. Protectionism distorts markets by creating domestic

monopolies, reducing competition and keeps prices higher, which hurts local consumers.

Committee Observation

The Committee noted the proposal by IEA. The Committee further noted that the proposal would require further research and stakeholder consultation.

Road Maintenance Levy Fund Act, Section 3

798. Amend the Road Maintenance Levy Fund Act by repealing Section 3 and all the related sections to wind up the Road Annuity Fund (RAF). The IEA urged parliament to wind up the Fund immediately to save public resources from avoidable losses and to avail more resources for sharing with counties. The IEA submitted that the Fund has failed to deliver on its targets recording 1% completion in some financial years.

Committee Observation

The Committee noted the proposal by IEA. Further, the Committee noted that the annuity fund is being wound up and there will be no new projects being funded by the model.

3.3.25 ASSOCIATION OF FINTECHS IN KENYA (AFIK)

Clause 2 (b)

799. Delete the clause as it creates a double-withholding penalty where businesses must withhold tax on the gross merchant service fee paid to the acquiring bank, while the acquiring bank simultaneously withholds tax on the interchange slice routed to the issuing bank thus taxing the same transaction flow twice.

Committee Observation

The Committee noted the concerns raised by AFIK but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore, the proposal was not supported.

Clause 2 (c)

800. Delete the proposal on the expanded definition of Royalty. Further, the stakeholder submitted that under the same clause seeking to charge gross pipeline volume instead

of net earned fees would create a tax liability larger than total actual profits, making operations completely unviable.

Committee Observation

The Committee noted that the provision relates to proprietory rights which gives rise to royalties. As such, the proposal was not supported.

Clause 31 (b)

801. Delete the proposal as taxing the payment pipeline itself creates a cascading tax-on-tax effect.

Committee Observation

The Committee acknowledged the concerns raised by AFIK and recommends the amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36 (a)(i)

802. Delete the proposal as higher device costs reduce mobile money adoption, digital trade, and SME participation in the digital economy undermining constitutional goals of financial inclusion.

Committee Observation

The Committee agreed with the concerns raised by AFIK and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 41 and 42

803. Delete the proposals as it violates the constitutional Right to Privacy and bypasses consent frameworks under the Data Protection Act, 2019.

Committee Observation

The Committee acknowledged AFIK's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to

prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

804. Delete the proposal as it violates the constitutional right to Fair Administrative Action.

Committee Observation

The Committee considered the concerns raised by AFIK and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

3.3.26 ASSOCIATION OF KENYA INSURERS (AKI)

Clause 16

805. Delete the proposal, as the proposed amendment grants the Commissioner intrusive discretion to interfere with corporate financial and operational decisions by compelling dividend distribution. Further, the stakeholder submitted that the proposal creates administrative complexities, including valuation disputes and potential refund claims when deemed distributions are not ultimately distributed.

Committee Observation

The Committee acknowledged the concerns raised and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19

806. Delete the proposal since the reduction in the filing period may increase administrative pressure on both taxpayers and the tax authority, resulting in a higher volume of revised returns, objections, and compliance interventions. This could undermine the objective of efficient tax administration rather than enhance it.

Committee Observation

The Committee noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23

807. Delete the proposal, as non-resident investors, private equity funds, and multinational groups must now factor in Kenyan CGT for all share disposals and group restructuring transactions involving Kenyan entities.

Committee Observation

The Committee acknowledged the concerns but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for deletion and recommended that the clause be retained.

Clause 31 (b)

808. Amend the proposal seeking to reclassify financial services related to money dealings from exempt to taxable. The stakeholder submitted that VAT on payment service providers will negatively affect the flow of money, given that the Kenyan economy heavily relies on mobile banking services.

Committee Observation

The Committee recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 41

809. Delete the proposal because the proposed provision grants the Commissioner overly broad and subjective discretion without sufficient statutory safeguards or objective criteria, thereby creating uncertainty in tax administration.

Committee Observation

The Committee supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 44

810. Delete the proposal since the proposed change creates a risk of double taxation in circumstances where the tax has already been duly declared and remitted by the recipient of the income.

Committee Observation

The Committee considered the concerns raised by AKI and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore recommended deletion of the proposal.

Clause 45

811. Delete the proposal since the proposed amendment undermines the taxpayer's constitutional right to access justice and fair administrative action by allowing enforcement measures to proceed while the dispute is still ongoing.

Committee Observation

The Committee agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with AKI and recommended deletion of the proposal.

Clause 48

812. Delete or amend the proposal to a phased approach per industry and per line of reporting. The stakeholder submitted that the proposed introduction of pre-populated tax returns is premature in the absence of a fully functional and reliable data reconciliation framework within the KRA's electronic systems, including eTIMS. Further, there are currently unresolved concerns regarding data accuracy, integration, and consistency across different industry systems, which may result in erroneous tax assessments if relied upon without safeguards.

Committee Observation

The Committee acknowledged the concerns but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

NEW PROPOSAL

Income Tax Act, Third Schedule – Head B

813. Amend the Third Schedule to the Income Tax Act is amended to introduce the revised tax bands as below:

1. The individual rates of tax shall be—

Monthly Bands(Kes	Rate
On the first Kes 30,000	10%
On the next Kes 20,000	15%
On the next Kes 50,000	20%
On the next Kes 300,000	25%
On amounts over Kes 400,000	30%

Personal relief be increased from Kes 2,400 to Kes 3,000 per month.

814. The stakeholder submitted that this will be in line with the Medium-Term Revenue Strategy (MTRS) and the National Tax Policy aspiration to expand individual tax bands & cushion income earners and further strengthen household purchasing power.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns raised by AKI.

3.3.27 FRESH PRODUCE EXPORTERS ASSOCIATION OF KENYA (FPEAK)

NEW PROPOSAL

VAT Act, First Schedule, Paragraph.150

815. Amend the first schedule of the VAT Act, paragraph 150 and reinstate the zero-rated VAT status for agricultural pest control products and expand the classification from "*Agricultural Pest Control Products*" to "*Pest Control Products*. This measure will help lower agricultural production costs and improve food security by reducing the cost burden on farmers and strengthening domestic agricultural productivity. The amendment made to change the VAT status of the inputs and raw materials used by manufacturers of agricultural pest control products to exempt status only referred to imported raw materials.

Committee Observation

The Committee that reinstating zero-rating for pest control products would significantly expand VAT expenditures and undermine the Government's policy direction of broadening the tax base and rationalising exemptions under the National Tax Policy and MTRS. As such, the proposal was not supported.

VAT Act, Section 5(2)

816. Amend the VAT rate for exporters from 16% to 8% to enable them to secure much-needed capital to remain competitive and ensure expansion.

Committee Observation

The Committee noted that imposition of a reduced 8% VAT rate for exporters would significantly expand VAT expenditures and undermine the Government's policy direction of broadening the tax base and rationalising

exemptions under the National Tax Policy and MTRS. As such, the proposal was not supported.

VAT Act, First Schedule, Paragraph 151

817. Amend the first schedule of the VAT Act. paragraph 151 and reinstate the zero-rated VAT status for fertilizers classified under HS Code in chapter 31, or consider a lower VAT, e.g., 5%. Additionally, harmonize all crop and soil nutrition products within the same tax bracket, preferably zero-rated, regardless of the HS code classification. Further, they proposed zero rating of local flower supplies and zero rating of local herbs supplies. VAT-exempt status increases production costs as input VAT cannot be reclaimed. International tax policy commonly supports preferential VAT treatment for fertilizers and crop nutrition products, with many jurisdictions zero-rating or applying reduced VAT rates to ensure affordability and encourage agricultural productivity.

Committee Observation

The Committee noted that the proposal would significantly expand VAT zero-rating and exemptions across fertilizers and the proposed products thereby increasing tax expenditures and undermining the National Tax Policy objective of maintaining a broad-based VAT system with minimal preferential treatment. As such the proposal was not supported.

VAT Act, Section 17(5)

818. Shorten the period for VAT refunds to reduce cash flow constraints in export-oriented operations and improve efficiency. Additionally, introduce interest payable by KRA/GoK on overdue VAT that is more than 2 years overdue. Refunds can be in the form of cash and/or treasury bonds that can be liquidated in the secondary market.

Committee Observation

The Committee noted that introducing statutory interest on delayed VAT refunds and allowing settlement through cash or tradable Treasury bonds would significantly increase fiscal costs, constrain cash management flexibility, and create additional debt management pressures for the Government. As such the proposal was not supported.

VAT Act, Section 5(2)

819. Amend Section 5, Subsection (2) by inserting the following new paragraph immediately after paragraph (ab)

"(ac) in the case of raw materials or input purchased for direct and exclusive use in floricultural and horticultural production, provided that at least ninety per centum of the annual production is destined for export, eight percent."

Committee Observation

The Committee noted that the proposal fragments VAT policy through selective reduced rates rather than addressing refund inefficiencies within the existing framework, thereby increasing complexity, compliance risks, and administrative burden for the tax authority. The horticulture sector already benefits from zero-rating on exports, and introducing an additional reduced input rate of 8% distorts input tax neutrality and creates potential for leakage and misclassification between export and domestic supply chains. Consistent with national tax policy and the Medium-Term Revenue Strategy, priority should be placed on streamlining refunds and enforcing existing zero-rating provisions rather than expanding preferential rates that erode the VAT base without guaranteeing improved export competitiveness. As such the proposal was not supported.

VAT Act, Section 17(2)

820. Amend Section 17, Subsection (2) by deleting the word "six" and substituting therefor with the word "nine".

Committee Observation

The Committee noted that extending the input VAT deduction period from six to nine months would delay the recognition of legitimate input tax claims and increase compliance complexity without addressing the underlying administrative issues in VAT credit processing. As such the proposal was not supported.

VAT Act, Second Schedule - Part A Paragraph 12,

821. Amend the second schedule to the VAT Act Part A-

a) In paragraph 12, by inserting the words

"*developer, operator or*" immediately after the word "*zone*".

Committee Observation

The Committee noted the proposal by FPEAK. It is noted that this amendment was taken in the Special Economic Zone Act, 2026.

VAT Act, Section 7

822. Amend section 7 by inserting the following subsections

" *(3) Notwithstanding subsection (2), the supply of taxable goods and services, including raw materials and capital equipment, to a licensed exporter shall be charged at the rate of eight per cent (8%) of the taxable value.*

(4) For the purposes of this section, "licensed exporter" means a person licensed as such by the Cabinet Secretary responsible for matters relating to trade or export promotion [or under the relevant export promotion legislation]"

823. This prevents the VAT refund bottleneck where licensed exporters accumulate massive credits, leading to liquidity challenges.

Committee Observation

The Committee noted the proposal by FPEAK. However, priority should be placed on streamlining refunds and enforcing existing zero-rating provisions rather than expanding preferential rates that erode the VAT base without guaranteeing improved export competitiveness. As such the proposal was not supported.

Section 17(6) of the VAT Act

824. Amend to allow full deduction of input VAT for all purchases used to generate income where 90% of the sales are standard rated. The Tax Laws Amendment Act, 2024, repealed Section 17(7) that provided an allowance for taxpayers to claim full input VAT as long as 90% of sales were standard rated. The additional VAT burden/loss arising must be absorbed by businesses, thus reducing revenue and making sales made to exempt customers uncompetitive.

Committee Observation

The Committee noted that the proposal reintroduces broad input VAT recovery in mixed-use scenarios through a formulaic approach that undermines the core VAT principle of input-output neutrality and risks substantial revenue leakage. The removal of the previous 90% rule was a deliberate policy shift under the Tax Laws (Amendment) Act, 2024 to curb abuse and improve precision in input tax attribution, particularly where exempt supplies are involved. Reinstating a near-full deduction mechanism would weaken compliance discipline, increase disputes over apportionment, and distort competition between taxable and exempt sectors contrary to the Medium-Term Revenue Strategy. As such the proposal is not supported.

Section 5(2A) of the VAT Act

825. Delete section 5 subsection 2A of the VAT Act therefore moving petroleum products to the First Schedule of the VAT Act as exempt supplies. This will reduce the VAT from the current 8 % to tax exempt effectively reducing the cost of fuel. Farming activities will benefit by a more affordable cost of doing business.

Committee Observation

The Committee noted that the proposal would permanently move petroleum products to exempt status, eliminating input VAT recovery and increasing embedded tax costs across the supply chain, which would ultimately offset any intended consumer price relief. As such the proposal is not supported.

SEZ Act

826. Amend the SEZ Act to include an alternative to 'land availability' by adding 'capacity to materially expand manufacturing or packhouse production' as a criteria. Investment in packhouse facilities and other agricultural processing warehouse requires significant available green space for expansion to significantly increase output and volumes.

Committee Observation

The Committee noted the proposal by FPEAK, and Finance Bill does not amend the SEZ Act.

Clause 47

827. Delete the proposal and amend the current provision to read as follows;

1) Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner, in the prescribed form—

(a)to offset the overpaid tax against the taxpayer's outstanding tax debts and future tax liabilities including instalment taxes, final balance of tax, withholding taxes, Pay As You Earn, VAT, withholding VAT and value added tax payable on imports; or

(b) (i) in the case of income tax, within five years from the date on which the tax was overpaid; or

(ii)in the case of any other tax, within twelve months from the date on which the tax was overpaid.

Committee Observation

The Committee considered the concerns raised by the stakeholder and further noted that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 43 (c)

828. Amend the proposal by extending the deadline by atleast 24 months to 30th June 2027 to allow taxpayers more time to regularize their tax affairs, particularly in cases where partial payments have already been made.

Committee Observation

The committee noted that the waivers and timelines provided in the clause are sufficient.

Section 47 (4A) of the TPA

829. Amend the section to read as follows;

"(4A) Where an application under subsection (1) has been subjected to an audit under subsection (4), the Commissioner shall ascertain and determine the application within one hundred- and twenty-days failure to which, the application shall be deemed to have been ascertained and approved."

830. The reduction in the timeline for conducting a KRA audit aligns with the pace at which refund applications are concluded, ensuring businesses do not experience delays in getting their refunds approved and settled promptly to aid their cash flow requirements.

Committee Observation

The Committee noted that the proposal imposes a rigid statutory audit and determination timeline that is not aligned with the complexity, risk-based nature, and evidentiary requirements of tax refund verification processes, which vary significantly across taxpayers and sectors.

NEW PROVISION

ITA, Section 47 - Repayment of overpaid tax

831. Insert a new Subsection:

"Where the Commissioner fails to refund the tax within six months of the application, the amount due shall earn interest at a rate of 1% per month until fully paid. "

832. This gives liquidity protection by holding KRA accountable for delays. It compensates businesses for the opportunity cost of stuck capital and aligns with the principle of fairness in tax administration.

Committee Observation

The Committee noted that imposing a mandatory 1% monthly interest on delayed tax refunds would create a rigid fiscal liability that does not account for legitimate verification, audit, and fraud-prevention processes required before public funds are disbursed. As such the proposal is not supported.

TPA, Section 23

833. Amend to introduce administrative flexibility allowing certain genuine business expenses to be recognized without eTIMS receipts where such receipts are not reasonably available. Specifically:

1. Allow deduction of small operational expenses where eTIMS receipts cannot reasonably be obtained.

2. Introduce a reasonable transaction threshold below which alternative documentation may be used. (E.g., Kes. 5,000 – 10,000)

3. Accept alternative documentation including: mobile money payment confirmations (e.g., M- Pesa statements), internal expense vouchers, delivery logs or service confirmations and digital platform confirmations.

4. Maintain audit oversight where taxpayers must demonstrate the business purpose of such expenses.

Committee Observation

The Committee noted that the proposal would weaken the integrity and traceability of the eTIMS-based tax administration system by reintroducing subjective and non-standardized documentation for deductible expenses. Allowing alternative proof of expenditure outside eTIMS undermines real-time transaction verification, increases opportunities for under-declaration of income and fictitious expense claims, and erodes the audit trail that the reform is designed to strengthen. Therefore, the Committee does not support the proposal.

Clause 36 (a) (xxvii), (xxviii), (xxix), and (xxx)

834. Delete the following kraft paper of HS Code 4804.11, 4804.31.00, 4804.41.00, and 4804.51.00 and the corresponding excise duty rates and impose a 0% rate on them. There are no manufacturers of kraft paper in Kenya, and therefore, this proposal will support Kenyan carton manufacturers and the agriculture sector players. The introduction of excise duty on importation of kraft paper has led to an increase of costs for companies by 42%. This will make their exports of fresh produce less competitive in the international markets.

Committee Observation

The Committee noted that the proposal is progressive and in line with government initiative to support local manufacturers and create employment. The Committee therefore noted that there was need for consultation to confirm the availability of local capacity to produce the Kraft paper. This is to be done before conclusion of Second Reading of the Bill.

3.3.28 KENYA FLOWER COUNCIL (KFC)

Clause 1

835. Amend Clause 1 to provide clarity on commencement dates of the Bill's provisions. According to the Kenya Flower Council, the commencement dates for the Bill were not clear.

Committee Observation
The Committee accepted the submission by the Flower Council.

Clause 16

836. Amend the provision to exclude retained earnings, debt obligations, expansion budgets, working-capital requirements from being subject to the proposed amendment to section 24 of the Income Tax Act.

Committee Observation
The Committee acknowledged the concerns raised by the Flower Council. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clauses 18 and 19

837. Delete the proposal that seeks to reduce the time for filing tax returns to four months from the current six-month period. The Council submitted that the flower exporters require reconciliation involving export documentation, foreign exchange, customs records, transfer pricing and VAT schedules.

Committee Observation
The Committee acknowledged the Flower Council's concerns and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 21

838. Amend this proposal to introduce an accelerated investment allowance for packhouses, cold rooms, irrigation schemes, renewable energy systems, and floriculture value-addition facilities. The stakeholder submitted that the current industrial building allowance may be insufficient for rapid export expansion.

Committee Observation
The Committee acknowledged the concerns raised by KFC but observed that the proposal provides necessary clarity on the investment allowance for industrial buildings by specifying that the 10 percent allowance is claimable annually in equal instalments, thereby removing ambiguity, ensuring consistent application of the law, and enhancing predictability for taxpayers and administrators. The Committee therefore noted that the

clause is a clean-up amendment intended to correct and clarify the provision, and recommended it for retention as contained in the proposal.

Clause 31(a)(ix) Paragraph 166

839. Amend the proposal to zero-rate the supply of solar and lithium-ion batteries for exporters.

Committee Observation

The Committee acknowledged the concerns raised by the Flower Council and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore recommended deletion of the proposal.

Clause 23 (d)

840. Amend Clause 23(d) to introduce materiality thresholds; exemptions for internal reorganizations; and exemptions where beneficial ownership does not change. The stakeholder submitted that the proposal in the Bill may discourage foreign investment, restructuring, mergers and succession planning.

Committee Observation

The Committee acknowledged the concerns raised by the Flower Council but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for amendment and recommended that the clause be retained.

Clause 27 (1)

841. Amend the proposed new Section 17A to exclude export production inputs and export supplies from VAT clawback.

Committee Observation

The Committee acknowledged the concerns raised by the Flower Council but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 31(b)

842. Amend the proposal to exempt or zero-rate export-related digital financial settlement services. The Council proposed that this would reduce transaction costs and support digital trade.

Committee Observation

The Committee noted the proposal by KFC, and undertook to consider it in future legislation.

Clause 42

843. Amend Clause 42(2) to require the Commissioner to reconcile notices before assessments are issued as per the proposed new Section 29A of the Tax Procedures Act. The stakeholder cited that this would reduce erroneous assessments and improve compliance certainty.

Committee Observation

The Committee acknowledged the Flower Council's comments but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and

place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 43

844. Amend the Clause to allow verified VAT refunds to offset principal tax under the amnesty.

Committee Observation

The Committee noted that the waivers and timelines provided in the Bill are sufficient.

Clause 45

845. Delete the proposal seeking to allow KRA to issue agency notices before appeals are heard.

Committee Observation

The Committee considered the concerns raised by KFC and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 47

846. Delete the Clause as it seeks to eliminate VAT on imports as a method of offsetting against overpaid tax.

Committee Observation

The Committee considered the concerns raised by the Council and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore recommended deletion of the proposal.

Clause 49

847. Delete the Clause as it proposes a reduction in practical response time for objections and appeals.

Committee Observation

The Committee considered the concerns raised by KFC and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the Council and recommended deletion of the proposal.

Clause 50(2)

848. The stakeholder proposed that Clause 50 (2) be amended by inserting additional provisions for the Commissioner to consider when a taxpayer fails to comply with eTIMS. The stakeholder proposed that internet failure, power outage, KRA system downtime, integration failures, and force majeure be included as matters for the Commissioner to consider.

Committee Observation

The Committee noted the proposal raised by the Council. However, the Committee supported the proposed amendment since its meant to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 55(a)(i) and 55(b)(i)

849. Delete Clause 55(a)(i) and 55(b)(i) that seek to make all goods and parts under Chapter 88 chargeable to import declaration fee and railway development levy, respectively. The Kenya Flower Council submitted that the proposal would increase aviation costs and directly increase flower freight charges.

Committee Observation

The committee noted the concerns of the stakeholder and resolved to delete the clause.

NEW PROPOSALS

Value Added Tax, Section 5

850. Amend Section 5 of the VAT Act to prescribe the rate of VAT applicable to flower exporters at 8%.

Committee Observation

The Committee noted the proposal by KFC. However, preferential tax rate for a specific agricultural sector violates the principle of tax neutrality and complicates tax administration.

VAT Act, Part VIII

851. Amend Part VIII of the VAT Act to provide a special exporter refund settlement framework that will prioritize settlement for exporters with verifiable job creation plans. The Council proposed that the framework should allow for settlement through cash, treasury bonds and tradable refund instruments.

Committee Observation

The Committee noted the proposal by the Council. However, linking VAT refund priority to subjective metrics like "job creation plans" violates tax neutrality and introduces unfair administrative discrimination.

VAT Act

852. Further, the Council proposed introducing a timeline for VAT refunds for exporters, requiring that they be verified and paid within 30 days.

Committee Observation

The Committee noted the proposal by the Council. However, noted that shortening this window to 30 days would strip the KRA of the time required to match electronic invoices via eTIMS, verify input tax authenticity, and perform anti-fraud cross-checks before public funds are disbursed and undertook to consider it in future legislation.

VAT Act, Second Schedule - Part A

853. Amend the Second Schedule by inserting the following new paragraph:

'The supply of fresh cut flowers locally purchased by a registered exporter or approved floriculture value-addition enterprise for direct and exclusive use in bouquet-making, packaging, processing or other export value addition'

854. The Council submitted that zero rating VAT for the aforementioned will increase local manufacturing, increase export value and strengthen Kenya's global competitiveness.

Committee Observation

The Committee noted the proposal by KFC. However, zero-rating domestic transactions for a specific sector violates the principle of tax neutrality and disrupts the standard credit-invoice VAT model.

Tax Procedures Act, Section 47

855. The Council proposed the amendment of the TPA to expand VAT offset vouchers to include PAYE, withholding tax, withholding VAT, import VAT and other tax obligations.

Committee Observation

The Committee noted this proposal cannot be supported because expanding VAT offset vouchers to cover PAYE, withholding tax, and import VAT violates public finance management principles and creates severe revenue risks. PAYE and withholding taxes are trust funds collected from employees and third parties; they cannot legally be retained to offset an exporter's private corporate tax claims. Allowing these offsets would disrupt real-time cash flows and incentivize the inflation of unverified VAT refund claims. Cash-flow challenges for exporters are being addressed by accelerating cash payouts through the automated verification framework rather than compromising other vital tax heads.

Tax Procedures Act

856. The stakeholder proposed that the TPA be amended to provide safeguards that ensure compliant taxpayers continue accessing refund systems during disputes. Additionally, the provision should restrict KRA from suspending a taxpayer's access without written notice, stated reasons, due process, and opportunity for review.

Committee Observation

The Committee noted that the constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards.

Excise Duty Act, Second Schedule

857. Amend the Second Schedule of the Excise Duty Act to exempt export packaging materials used directly and exclusively for export flowers from excise duty.

Committee Observation

The Committee noted the proposal by the stakeholder. However, introducing narrow, commodity-specific legislative exemptions complicates border administration and increases the risk of domestic tax leakage.

NEW PROPOSAL

VAT Act

858. The stakeholder proposed that the Bill should establish a dedicated floriculture export framework by providing VAT zero-rating for flowers used in value addition; fast-track VAT refunds; one-stop customs and KEPHIS clearance; priority cold-chain handling; relief on packaging and cold-chain equipment. The Council cited that these measures will increase local manufacturing, create employment, and increase foreign exchange retention.

Committee Observation

The Committee noted that this proposal cannot be supported because creating a standalone, sector-specific framework for the floriculture industry fractures national tax design and duplicates existing export incentive regimes.

SEZ Act

859. Amend SEZ qualification criteria to include: installed production capacity; manufacturing throughput; packhouse expansion capability; export potential; and employment generation. The stakeholder submitted that this would accelerate value addition, increase utilization of existing infrastructure, and encourage reinvestment.

Committee Observation

The Committee noted that this proposal cannot be supported because amending the Special Economic Zones (SEZ) qualification criteria falls under the statutory mandate of the Ministry of Investment, Trade and Industry, not the National Treasury and the Finance Bill, 2026 is strictly limited to tax policy and revenue administration measures.

3.3.29 LEXLINK CONSULTING

Clauses 18 and 19

860. Delete the clause because reducing the timelines is bound to create immense pressure on taxpayers. This is particularly because auditors will struggle with undue burden, which is likely to result in a surge of errors, late- filing penalties, and higher administrative costs.

Committee Observation

The Committee acknowledged the Lexlink's concerns and noted that the proposal to introduce revised filing timelines would improve compliance

and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31 (b)

861. Amend to expressly exempt payment service provider services from the imposition of VAT, in order to safeguard affordability, financial inclusion, and continued access to digital financial services. Alternatively, the provisions should be amended to clearly define the scope and extent of taxation applicable to payment service providers, including the specific services subject to VAT, so as to eliminate ambiguity and ensure certainty in implementation.

Committee Observation

The Committee acknowledged the concerns raised by the Lexlink Consulting. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clauses 34 to 36

862. The excise duty rate ought to be reconsidered to avoid undermining digital inclusion objectives. It should also not apply to the locally manufactured phones as it contradicts the government's efforts to empower local manufacturing. The provisions should be amended to engage the 'extraordinary' scenarios when it comes to taxation of mobile phones in the country, as outlined above, to make the intended tax outcomes more efficient.

Committee Observation

The Committee agreed with Lexlink's concerns and observed that the proposal would increase compliance and tax administration challenges, delay revenue collection, create uncertainty for consumers, as well as undermine digital inclusion, affordability, and access to mobile phones and digital services. The Committee further noted that the proposal could discourage local assembly and investment in the ICT sector and requires

further research and stakeholder consultation. Consequently, the Committee recommended deletion of the proposal.

Clause 41

863. Delete the proposal because it will grant KRA authority to ignore the legal form of an arrangement and tax it based on its perceived economic substance. Additionally, the proposal appears to overlook the existence of legal forms of tax benefits characterized through tax planning, which is legal by law.

Committee Observation

The Committee acknowledged the concerns by Lexlink. The Committee further supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 45

864. Amend the clause to restrict the issuance of agency notices where a taxpayer has lodged a valid appeal. The provision grants the Commissioner broad powers to issue agency notices notwithstanding a pending appeal against an assessment. This may permit enforcement action before dispute resolution mechanisms are exhausted and without sufficient safeguards to ensure compliance with statutory due process.

Committee Observation

The Committee considered the concerns raised by Lexlink Consulting and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

Clauses 48 and 52

865. Amend the provisions to expressly define third-party information to be relied on by the Authority to generate the prepopulated returns. Additionally, amend to grant people interacting with prepopulated returns the ability and adequate timeline to review and amend before they submit their returns.

Committee Observation
The Committee acknowledged the concerns raised by Lexlink Consulting regarding the use of third-party information in pre-populated returns and the need for taxpayers to have adequate opportunity to review and amend such returns. The Committee observed that appropriate safeguards are necessary and therefore recommended amendments to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where required. The Committee further noted that a strengthened compliance framework, including enhanced penalties for non-compliance with electronic tax systems, is necessary to support effective implementation of digital tax administration and improve overall tax compliance.

3.3.30 LEX CHAIN CONSULTING LIMITED

Clause 38(6C)

866. Amend proposal by inserting the following paragraph;

I (a) The information return shall contain only such information as is necessary, relevant and proportionate for the purposes of compliance with *this Act and any agreement entered into under section 6D, and shall be collected, processed, retained and disclosed in accordance with the Data Protection Act.*

Committee Observation
The Committee supported this proposal.

867. Alternatively, amend the proposal by inserting the following new paragraphs;

I (a) The Information collected pursuant to this section shall not be used for any purpose other than compliance with this Act, tax administration, tax enforcement, or the implementation of an agreement entered into under section 6D.

I (b) A virtual asset service provider shall implement appropriate technical and organisational measures, including encryption, access controls and audit trails, to protect information collected and transmitted under this section against unauthorised access, disclosure, alteration or destruction.

1(c) A virtual asset service provider shall notify a reportable user of the categories of information collected under this section, the purpose of the collection and the intended disclosure of such information to the Commissioner.

1(d) Access to information obtained under this section shall be restricted to authorised officers acting in the performance of their official duties.

868. The proposed amendment supports implementation of the Crypto-Asset Reporting Framework (CARF) while limiting reporting obligations to information necessary for tax compliance purposes. It aligns CARF implementation with the Data Protection Act by promoting data minimisation, purpose limitation, and protection of personal information. The amendment also strengthens compliance with Article 31 of the Constitution on privacy rights and ensures that any limitation of privacy is reasonable, proportionate, and legally justifiable under Article 24.

Committee Observation

The Committee acknowledged the Lex Chain's submission and supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the concerns.

Clause 38(6D)

869. Amend the proposal by inserting the following new paragraphs:

1(a) Information exchanged pursuant to an agreement under this section shall be subject to confidentiality obligations and safeguards equivalent to those provided under the laws of Kenya relating to privacy and protection of personal data.

1(b) The Commissioner shall not exchange information under this section unless satisfied that the receiving jurisdiction maintains adequate legal, technical and organisational safeguards for the protection of personal information

1(c) Information exchanged under this section shall be limited to information that is necessary, relevant and proportionate for the purposes specified in the applicable agreement.

1(d) The Commissioner shall maintain a record of all disclosures made under this section, including the recipient jurisdiction, date of disclosure, legal basis of disclosure and categories of information disclosed.

870. The proposed amendments aim to ensure that automatic exchange of information under the Crypto-Asset Reporting Framework complies with Kenya's constitutional and data protection laws while maintaining effective tax transparency. The

amendments require cross-border information sharing to occur only with jurisdictions that have adequate privacy and confidentiality safeguards comparable to Kenyan standards.

Committee Observation

The Committee acknowledged the concerns raised by the Lex Chain Consulting. It supported the inclusion of cross-border information exchange provisions under the Crypto-Asset Reporting Framework, noting that such exchange must be subject to robust data protection safeguards. The Committee further observed that the proposed amendments align with the Data Protection Act and constitutional privacy rights while enabling effective tax transparency.

3.3.31 DEMOCRACY FOR THE CITIZENS PARTY (DCP) YOUTH LEAGUE

Clauses 7(o), 17(a)(w) and (b)(q)

871. Amend the proposal to allocate a higher percentage of tax on winnings derived from gambling to discourage the growing crisis among unemployed youth. Furthermore, establish a National Youth Mental Health and Addiction Support Program to be funded from betting taxes, introduce stricter responsible gambling protections for young people, and allocate a percentage of betting tax revenues to youth employment and sports development.

Committee Observation

The Committee acknowledged the concerns raised by the Youth League but noted that the proposed withholding tax on winnings is intended to ensure that income derived from betting, gaming, lotteries, and prize competitions, including non-cash prizes, is brought within the tax framework and contributes fairly to revenue collection.

Clauses 18 and 19

872. Delete the proposal because shortening the tax-filing deadline could burden small youth businesses. Furthermore, amend the proposal to simplify tax filing systems for youth and informal traders, exempt micro and small youth businesses from punitive filing penalties and conduct nationwide tax literacy campaigns targeting youth.

Committee Observation

The Committee acknowledged their concerns and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending

the clause to allow individuals four months and corporates six months to file returns.

Clause 31(a)(ix) 163

873. Delete the proposal. Instead, maintain the tax incentives for locally assembled and manufactured mobile phones because Kenyan youth need affordable devices to compete in the modern economy. The proposal would indirectly increase device costs, thereby undermining digital literacy, online jobs, innovation, and youth participation in the digital economy.

Committee Observation

The Committee acknowledged the DCP's concern that transferring locally assembled and manufactured mobile phones from VAT zero-rated status to VAT exempt status would increase production costs by denying manufacturers the ability to recover input VAT. The Committee further observed that these additional costs are likely to be passed on to consumers through higher phone prices, which could undermine affordability, digital literacy, online employment opportunities, innovation, and youth participation in the digital economy.

Clause 31(a)(vii)

874. Delete the proposal and retain the VAT exemptions in affordable housing construction. Furthermore, amend the proposal to introduce tax incentives for first-time home buyers under 35 years; create youth mortgage support schemes with low-interest financing; and increase transparency and accountability in the Affordable Housing Fund.

Committee Observation

The Committee noted the concern raised by the DCP Youth League and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31(b)(i)

875. Amend the proposal to exempt youth-led digital enterprises and startups from additional VAT for at least 5 years, introduce a reduced VAT rate for fintech services used by SMEs and startups, create a tax incentive framework for digital innovation and youth-owned online businesses, and protect low-value mobile money transactions from increased taxation. This is because the proposal would increase transaction costs, reduce earnings for online workers and SMEs, make digital entrepreneurship less profitable, hurt youth-led innovation and discourage innovation.

Committee Observation

The Committee acknowledged the concerns raised by DCP. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(i)

876. Delete the proposal because the tax burden would ultimately be transferred to consumers, particularly the youth who heavily rely on mobile phones as essential tools for learning, business, self-employment, communication, and access to government services.

Committee Observation

The Committee agreed with the concerns raised by the Youth League and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

NEW PROPOSAL

877. Amend the VAT Act to zero-rate smartphones, laptops, tablets, and internet-enabled devices for student and youth entrepreneurs to promote affordability and encourage digital inclusion.

Committee Observation

The Committee noted the proposal by the DCP Youth League. However, this proposal cannot be supported because zero-rating consumer electronics for specific demographic groups violates the core tax design principle of neutrality and is administratively unfeasible.

878. Establish a Digital Inclusion Fund to subsidize smart devices for low-income youth.

Committee Observation

The Committee noted the proposal by the DCP Youth League. However, establishing a Digital Inclusion Fund through tax legislation violates Public Finance Management principles by fracturing the Consolidated Fund and restricting budgetary flexibility; such socioeconomic interventions and subsidies must be funded transparently through standard national budget

allocations under their respective line ministries rather than distorting the fiscal framework.

879. Amend the laws relating to tax matters to impose a 5-year tax holiday for youth-led startups, provide for tax rebates for companies employing young graduates, reduce taxation for the creative sector, and establish a Youth Innovation and Enterprise Fund.

Committee Observation

The Committee noted the proposal by the League. However, the proposal cannot be supported because implementing a 5-year tax holiday for youth-led startups, graduate rebates, and creative sector tax cuts erodes the corporate tax base and introduces age-based discrimination that is administratively unfeasible and easily exploited through proxy business ownership.

880. Noting that many youth grapple with high unemployment and low wages, conduct a Youth Economic Impact Assessment before implementation of any new tax, protect essential goods and services from increased taxation, expand tax reliefs for low-income earners and review PAYE bands to increase disposable income for young workers.

Committee Observation

The Committee noted the concern by the Youth League and acknowledged that it is a good proposal for policy makers to consider for socioeconomic interventions.

3.3.32 STRATHMORE TAX RESEARCH CENTRE (STRC)

Clause 18(a)

881. Delete the proposal in its entirety because it would increase compliance costs for small taxpayers still struggling, even within the current six-month window. In an increasingly automated and error-prone phase of tax compliance, it would be ill-advised to compress the tax filing window from six to four months.

Committee Observation

The Committee acknowledged STRC's concern and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee

recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31(b)(i)

882. Amend the proposal to explicitly exempt mobile money transfer services from VAT, as imposing a 16% VAT on mobile money transfers on top of the existing excise duty would create a double tax burden on every transaction, significantly increasing the cost of sending money and affecting mobile money platforms like M-Pesa and Airtel Money. Furthermore, the proposal would undermine access to government services (eCitizen transactions) for ordinary Kenyans, reverse financial inclusion gains, and discourage digital payments.

Committee Observation

The Committee acknowledged the concerns raised by the Strathmore Tax but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(i)

883. Delete the proposal as it would result in an increase in phone prices, becoming a barrier to Kenya Kwanza's commitment to building the creative economy. Further, higher phone prices are likely to further deepen the digital divide.

Committee Observation

The Committee agreed with the concerns raised by the STRC and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal

Clause 43(a) to (d)

884. Amend the proposal to extend the Tax Amnesty Program to June 30th, 2027 to allow taxpayers a longer window for the amnesty given the switch from self to dual-based assessment and adoption of income and expenses validation.

Committee Observation

The Committee noted that the waivers and timelines provided in the clause are sufficient.

Clause 45

885. Delete the proposal in its entirety because it contravenes the dictates of tax justice and will significantly expose taxpayers to the grave risk of grossly overstated assessments by KRA. Furthermore, the proposal seeks to cure a non-existent problem because at the High Court, parties to a dispute mutually agree on a deposit as an act of good faith.

Committee Observation

The Committee considered the concerns raised by Strathmore Tax and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

Clause 49

886. Delete the proposal as it is retrogressive and threatens to constrain the window and time that taxpayers are granted in lodging objections to KRA. Furthermore, the proposal is in an increasingly complex tax compliance framework that is heavily digitized, which would disadvantage many taxpayers.

Committee Observation

The Committee considered the concerns raised by Strathmore Tax Research Centre and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals,

particularly in complex tax matters. The Committee therefore recommended deletion of the proposal.

NEW PROPOSAL

Tax Procedures Act, Section 56(1)

887. Noting that Kenya has effectively switched from a Self-Assessment to Dual Assessment Tax Regime, amend section 56(1) of the Tax Procedures Act to require that the burden of proof obligation reflects this reality by deleting the words *"the burden shall be on the taxpayer to prove that a tax decision is incorrect"* and replacing it with *"the burden shall be on the taxpayer to prove that a tax decision is incorrect only where the data relied upon is generated based on self-assessment. In cases where the Authority has relied on auto-populated data, including on third party data, the burden shall be on the tax authority to prove that a tax decision is correct".*

Committee Observation

The Committee amended the provision to allow the taxpayer to accept or amend pre-populated return. It is worth noting that this would be in line with legal doctrine *Onus Probandi*.

Income Tax Act, Third Schedule

888. Amend Head B of the Third Schedule to the Income Tax Act to review the PAYE bands in fulfillment of the long-deferred promise of the Medium-Term Revenue Strategy 2024/25 – 2026/27 as follows:

"On the first KES 360,000	-	*10.0%*
On the next KES 100,000	-	*17.5%*
On the next KES 5,612,000	-	*25.0%*
On the next KES 3,600,000	-	*27.5%*
Above KES 9,600,000	-	*30.0%"*

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of STRC.

Income Tax Act, Third Schedule

889. Amend paragraph 1 of Head A of the Third Schedule to the Income Tax Act to increase the personal relief from KES 2,400 to KES 3,000 to align with the proposed adjustment of the lower PAYE band from Kes 24,000 to KES 30,000.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores measures to cushion low-income earners.

890. Amend the Affordable Housing Act to suspend the collection of the Housing Levy to cushion Kenyans against the prevailing economic hardships and rising cost of living.

Committee Observation

The Committee noted that the developed houses are now being sold and recommends that the Affordable Housing Board ensures that the Affordable Housing Fund be self-sustaining.

3.3.33 INTERNATIONAL INSTITUTE FOR LEGISLATIVE AFFAIRS (IILA)

Clause 36(a)(ii)

891. Amend the proposal to increase the excise duty rate by 100% to restore the deterrent effect of excise duty.

Committee Observation

The Committee acknowledged the proposal raised by IILA but noted that the current excise duty framework does not distinguish sugar-sweetened beverages from other non-alcoholic drinks despite their higher health risks, thereby justifying a differentiated tax treatment.

Clause 36(a)(iv)

892. Amend the proposals to increase the excise duty rates for beer to KES 33 per cl pure alcohol in line with the WHO Global Alcohol Action Plan thereby ensuring that taxation is equitably proportionate to the volume of harm.

Committee Observation

The Committee noted the submission from IILA. Further, the Committee noted that the proposal in the clause could drive production and consumption toward unregulated and illicit brews, resulting in revenue

losses, increased public health risks, and adverse social and economic consequences. The Committee therefore recommended deletion of the proposal.

Clause 36(a)(xxxiv)

893. Amend the proposals to increase the excise duty rates for extra neutral alcohol (ENA) to KES 900 per litre. Furthermore, retain and strengthen the ENA licensing restriction to manufacturers to prevent the expansion of the illicit market.

Committee Observation

The Committee noted the proposal raised by IILA but took a different view, observing that the provision is intended to prevent the cascading of excise duty by allowing Extra Neutral Alcohol (ENA) used as a raw material in the manufacture of alcoholic beverages to receive appropriate excise treatment within the production chain. This ensures that excise duty is not imposed multiple times on the same product during the manufacturing process.

Clause 36(a)(xxxv)

894. Amend the proposal to broaden the sugar-sweetened beverages (SSB) category to include concentrates and flavoured milks. Additionally, revise the excise duty rate of sweetened beverages from KES 14.14 (not containing added spirit) and KES 20.00 (containing added spirit) by 100% to restore the deterrent effect of SSB duty and reinforce its role in discouraging excessive consumption of SSBs.

Committee Observation

The Committee acknowledged the concerns raised by IILA but ultimately supported retaining the excise duty increase.

NEW PROPOSAL

Excise Duty Act, First Schedule

895. Amend the First Schedule to the Excise Duty Act to increase the excise duty rates for cigarettes (plain and with filters), oral nicotine pouches, liquid nicotine for e-cigarettes and e-cigarettes and delivery devices to 4,920 per mille, 2,400 per kg, 120 per ml and 60% of retail price, respectively.

Committee Observation

The Committee noted that increase of excise duty on these tobacco and nicotine products would introduce excessive tax volatility, weakening predictability in the tax regime and increasing incentives for tax avoidance, illicit trade, and product substitution into unregulated markets. As such the proposal is not supported.

896. Reinstate the Commissioner's mandate to adjust specific excise rates annually in line with inflation and prevailing economic indicators to preserve the real value of the tax deterrent and protect the revenue base from progressive erosion.

Committee Observation

The Committee noted the proposal by IILA. The Committee further noted that the proposal would require further research and stakeholder consultation. This would call for reintroduction of inflation adjustment which is against the National Tax Policy that calls for tax predictability.

Excise Duty Act, First Schedule

897. Amend the First Schedule to the Excise Duty Act to increase the excise duty rate for spirits (>6% ABV) to KES 33 per cl pure alcohol to protect public health.

Committee Observation

The Committee is of a different view as this proposal risks reversing years of progress in controlling illicit alcohol and could lead to a spike in alcohol-related deaths and healthcare costs.

Excise Duty Act, First Schedule

898. Amend the First Schedule to the Excise Duty Act to increase the excise duty rate of powdered juice (first introduced in 2023) from KES 25 per kg to KES 50 per kg to restore the deterrent effect of excise duty and reinforce its role in discouraging excessive consumption of powdered juice.

Committee Observation

The Committee noted the stakeholder's concern. However, there should be a balance between revenue mobilization and protecting manufacturers.

Excise Duty Act

899. Introduce a dedicated health earmarking framework that explicitly links revenue collection from Sugar Sweetened Beverages (SSBs) excise duty to the financing of targeted public health interventions such as Childhood Obesity Prevention and School Health and Nutrition Programmes.

Committee Observation

The Committee noted the stakeholder's concern. However, there should be a balance between revenue mobilization and protecting manufacturers.

3.3.34 BOWMANS

Clause 2(c)

900. Delete the proposed sub-paragraph (a)(vii) of the proposed new definition of 'royalty' as it is inconsistent with the established legal principles as well as international tax principles and treaties.

Committee Observation

The Committee noted Bowman's proposal. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 11

901. Bowmans supports the proposed change since the current provision requires that a Kenyan company undertakes both leasing and lending business to qualify for the exemption, which is restrictive since the relevant entity must satisfy both conditions in order for the interest restriction exemption to be applicable.

Committee Observation

The Committee acknowledged the Bowman's submission and further observed that the proposed amendment only seeks to clean up the provision by clarifying the deductibility of interest for non-deposit-taking institutions engaged in lending and leasing activities. The Committee further noted that the current restriction is misaligned with commercial realities and may deny legitimate deductions for expenses incurred wholly and exclusively in income generation

Clause 16

902. Delete the proposal in its entirety as it presents commercial unreasonableness, capital impairment, and a mismatch between accounting profits and distributable cash. Further, the proposal would impair the ability of MSMEs to grow and create employment.

Committee Observation

The Committee acknowledged the concerns raised by Bowman and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18 and 19

903. Delete the proposal since it would significantly reduce the timeline within which entities have to complete their audit processes, determine the balance of tax payable and prepare and file the corporate income tax return.

Committee Observation

The Committee acknowledged the Bowman's concerns and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31(a)(ix) Paragraph 163

904. Delete the proposal as it may increase the cost of locally assembled phones.

Or

905. If the proposed exemption is retained, an additional clause is introduced to exempt from VAT the inputs (components) used in the local manufacture or assembly of mobile phones. These inputs include "disassembled or unassembled kits for manufacture of mobile phones" as already exempted from excise duty under the Excise Duty Act.

Committee Observation

The Committee acknowledged the concerns raised by Bowman and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 31(b)(i)

906. Delete so that money transfer services and similar payment processing services remain exempt from VAT;

Or

907. If Clause 31(b)(i) is retained, it should be amended to clearly distinguish between '**core payment facilitation services'** *(being services that are directly involved in moving money or executing a payment transaction*) and '**standalone technology services'** (*being services that provide underlying technology, software, or infrastructure support to payment systems without directly facilitating the movement or settlement of funds*).

908. The stakeholder submitted that the VAT exemption should continue to apply to money transfer, payment processing, settlement and merchant acquiring services where those services form part of dealings with money including but not limited to the issue, transfer, or receipt of money. The exemption should not extend to standalone software, gateway, aggregation, platform access, technical support or other technology services supplied for a separate fee, where those services are not integral to the movement or settlement of money.

Committee Observation

The Committee acknowledged the concerns raised by Bowman. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 34

909. Delete the proposal to ensure the law retains the current position under the Excise Duty Act, such that excise duty crystallizes at the point of importation or local manufacture;

OR

910. If the activation-based collection mechanism is retained, it should not commence until the Cabinet Secretary has prescribed the regulations. The regulations should:

i. define "activation";
ii. identify the persons liable to account for excise duty at activation;
iii. prescribe rules for valuation of the devices at activation;
iv. make provision for already activated devices, mobile phone warranty replacements, reactivated devices, second – hand devices and devices activated outside Kenya (for example in the case of inbound roaming customers);
v. provide for data protection safeguards with respect to personal data handled as part of the operation of the activation – based excise duty collection mechanism; and
vi. provide for the effective dates for the enforcement of the activation – based collection mechanism.

Committee Observation

The Committee acknowledged the concerns raised by Bowman and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection

from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(i)

911. Delete the proposal in its entirety so that excise duty remains applicable to imported cellular phones at the rate of 10%;

Or

912. The Bill be amended to expressly exclude locally manufactured phones from the ambit of this proposed amendment so that the new excise duty rate of 25% is only applicable to imported cellular phones. The stakeholder submitted that excise duty at 25% on the excisable value of all phones will be reflected in significantly higher retail prices. For locally manufactured phones, which currently attract no excise duty, the entire 25% is a new cost element.

Committee Observation

The Committee agreed with the concerns raised by Bowman and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore recommended deletion of the proposal.

Clause 45

913. Delete the proposal as it is an affront to Constitutionally established safeguards which include fair administrative action, right to fair hearing, and protection of property rights.

Committee Observation

The Committee considered the concerns raised by Bowman and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal,

while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 49

914. Delete the proposal since the existing framework in the TPA promotes fairness and procedural justice by ensuring that taxpayers are afforded a reasonable and practical window within which they can object and appeal.

Committee Observation

The Committee considered the concerns raised by the Bowman and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore recommended deletion of the proposal.

New Provision – Section(2)(j)(iii)

915. Section 16(2)(j)(iii) of the Income Tax Act is amended by inserting a new clause (J) as follows:-

'(J) gross interest paid or payable to any international bank, licensed under the laws of its jurisdiction of incorporation, provided that the international bank is a related person of a bank under section 16(2)(j)(iii)(A) of the Income Tax Act would be exempt from the restriction on deductibility of interest'

916. Bowmans submitted that Kenyan entities should not be disadvantaged by the mere fact of borrowing from offshore-regulated banks related to Kenyan banks. As Kenyan companies continue to grow and undertake capital-intensive projects, their financing needs sometimes exceed the balance sheet capacity and/or credit limits of local banks. In these circumstances, borrowing from foreign banks becomes necessary.

Committee Observation

The Committee noted that the proposal would create a significant structural erosion of the interest limitation rule under section 16(2)(j), which is designed to curb base erosion and profit shifting through excessive or strategically structured debt financing, including within related-party banking arrangements. As such the proposal was not supported.

3.3.35 ICHIBAN TAX AND BUSINESS ADVISORY

Clause 2 (c)(vii)

917. Delete the proposal to retain the current definition of "royalty" under the Income Tax Act because it conflicts with the definition provided in Kenya's Double Tax Agreements (DTAs).

Committee Observation

The Committee noted that the provision relates to proprietary rights which gives rise to royalties. As such, the proposal was not supported.

Clause 31(b) (i)

918. Delete the proposal as the exemption of financial services from VAT is based on long established tax policy, which acknowledges the challenges in identifying the value added by financial transactions and the potential for multiple layers of taxation. The proposal to subject to VAT, financial services supplied over a software or platform by a payment service provider (PSP) is discriminatory in comparison to other financial intermediation channels and against the neutrality principle of taxation. The proposed clause discourages financial innovation and financial inclusion in the financial services sector by PSPs, contrary to the goals set out in the National Financial Inclusion Strategy (NFIS) 2025-2028.

Committee Observation

The Committee acknowledged the concerns raised by Ichiban Tax. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 16

919. Delete the clause in its entirety, as the revenue authority forcing a high payout ratio of 60% strips companies of the retained safety cushions needed to absorb operational losses during recessions and/or economic shutdowns. The earnings are essential for business growth, reinvestment and long-term financial stability. Empowering the Commissioner to compel the distribution of 60% of retained earnings would reduce funds available for expansion and investment. While the measure may increase short term revenue collection, the stakeholder expressed concern that it could weaken future Corporate Income Tax and PAYE growth by limiting business development and job creation.

Committee Observation

The Committee acknowledged the concerns raised by Ichiban Tax and agreed that the proposed introduction of a 60 percent deemed dividend

distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 31 (ix) as read with Clause 32 (d,e,g)

920. Delete the proposed clause 164, Section A, First Schedule, and retain Section 30, Part A, Second Schedule, as Kenya's National Electric Mobility Policy, 2026 sets out Kenya's goal to lower emissions through the adoption of e-mobility.

Committee Observation

The Committee acknowledged the concerns raised by Ichiban Tax and agreed that transferring electric motorcycles from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT. Therefore, the Committee emphasized that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with Ichiban Tax and recommended deletion of the proposal.

Clause 31 (ix) 166 as read with Clause 32 (f)

921. Delete the proposal as the current cost of the solar and lithium-ion batteries is relatively high, and reclassifying the same to VAT exempt status will lead to increased costs and a decline in sales and accessibility for consumers. By keeping solar affordable, Kenya rapidly transitions away from polluting energy sources like diesel generators and firewood, significantly reducing greenhouse gas emissions and improving public health.

Committee Observation

The Committee acknowledged the concerns raised by Ichiban Tax and agreed that transferring these goods from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make

long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore recommended deletion of the proposal

Clause 45

922. Delete the entire clause as granting power to the revenue authority to issue an agency notice before an independent Tax Tribunal or Court rules on the merits of the case, allows the Commissioner to abuse its powers and treats an unconfirmed tax assessment demand as an absolute debt, depriving taxpayers of their right to be heard. Deleting Section 42(14)(e) limits the dispute resolution process and creates an unfair environment for taxpayers to Pay to Play before the merits of their cases are determined.

Committee Observation

The Committee considered the concerns raised by Ichiban Tax and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with Ichiban Tax and recommended deletion of the proposal.

Clause 49

923. Delete the entire clause as deletion of Section 77 (2) of the Tax Procedures Act reduces the number of days a taxpayer has to lodge its objection and appeal. The deletion will compress the actual time available to taxpayers to prepare their defense. This notwithstanding, the burden of proof lies with taxpayers to collect and produce sufficient evidence and documentation to discharge any and all tax assessments raised by the Commissioner. Retention of Section 77(2) will allow taxpayers to adequately prepare for all disputed tax assessments and upholds taxpayers' rights to justice.

Committee Observation

The Committee considered the concerns raised by Ichiban Tax and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters.

The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

3.3.36 ERNST AND YOUNG LLP (EY)

Clause 2 (b)

924. Delete the proposal as introduction of 2 withholding tax points for interchange fees i.e. at merchant and acquiring bank level introduces the risk of uncertainty of tax collection and potential double taxation. Further, imposing withholding tax on such fees could increase the cost of digital payments, with the burden likely passed to consumers.

Committee Observation

The Committee noted the concerns raised by EY but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

925. Amend the proposal to limit the definition of royalty to payment for use of or right to use intellectual property, as it incorrectly classifies payments for services and infrastructure access as royalties, contrary to international tax principles that distinguish royalties from service fees. This creates conceptual inconsistency, ambiguity, and a higher risk of disputes. Further, the proposal is inconsistent with AfCFTA objectives, as taxing payment infrastructure as royalties could increase transaction costs and undermine regional digital integration and cross-border payment interoperability.

Committee Observation

The Committee noted that the provision relates to proprietary rights which gives rise to royalties. As such, the proposal was not supported.

Clause 3 (b)

926. Amend the proposal to read as follows; (ga) any contribution to *or payment of* a gratuity in respect of employment or services rendered because without clearly distinguishing between contributions and payments, there is a risk of inconsistent tax treatment, whether tax arises when amounts are set aside or when they are paid out, leading to potential payroll errors and disputes. Further, align definitions with the

Income Tax Act: Key terms such as "gratuity", "contribution", and "basic salary" should be aligned with, or defined by reference to, the existing Income Tax Act as clear definitions and scope will enhance ease of compliance and reduce reliance on post-enactment interpretation.

Committee Observation

The Committee acknowledged the concerns raised by EY but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 6

927. Amend the proposal by deleting five (5) days and replacing it with twenty (20) days as the proposed 5-day remittance period may be difficult for non-resident operators to comply with due to limited in-country presence and operational constraints. Further, shifting from a withholding tax system to self-assessment increases the compliance burden and the risk of delayed or non-compliant outcomes. Extending the remittance period and introducing simplified procedures would reduce administrative challenges, enhance voluntary compliance, and support effective revenue collection.

Committee Observation

The Committee acknowledged the concerns raised by EY but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clause 16

928. Delete the proposal as it undermines legitimate business decisions to retain earnings for operations, expansion, or future investments. It also grants broad discretionary powers to the Commissioner, creates uncertainty due to undefined terms, and may force disclosure of commercially sensitive information, exposing businesses to competitive risks.

Committee Observation

The Committee acknowledged the concerns raised by EY and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19

929. Amend to;

a) retain the last day of the sixth month filing deadline.
b) Clarify that the one-month filing requirement applies strictly to nil returns and not to cases where a taxpayer has no tax payable but is still required to prepare and submit a full return (e.g., due to losses or carried forward positions)

930. This is because reducing the filing timeline from six to four months would place undue pressure on taxpayers' financial reporting, audit, and tax compliance processes, increasing the likelihood of errors, amendments, and penalties. In addition, the requirement to file nil returns within one month may create ambiguity, particularly where a taxpayer has no tax payable but is still required to submit a substantive return.

Committee Observation

The Committee acknowledged EY's concerns and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22 (b) and (c)

931. Clarifying whether the withholding tax applied on winnings at 20% constitutes a final tax or a creditable/advance tax and recommend expressly proving that this withholding tax shall be treated as a final tax because the wording of the proposal creates uncertainty on whether withholding tax on winnings is a final tax or an advance payment subject to further reporting. Clarifying that the tax is final, where intended, would simplify administration, reduce compliance burdens for recipients, and align with existing withholding tax practices in Kenya

Committee Observation

The Committee acknowledged EY's concerns but supported the proposed amendments to tax scrap metal sales and the 20% withholding tax on prize winnings, asserting that these measures provide clear legal bases, enhance traceability, and promote consistency and fairness while safeguarding government revenue and closing existing regulatory gaps. Further, the Committee resolved to harmonize taxation on betting.

Clause 23 (d)

932. Amend to include a materiality threshold of at least twenty per cent (20%) (value or ownership) for the application of these provisions and provide guidance on the methodology of determining whether shares derive their value from Kenya as it would ensure only significant transactions are taxed, preventing routine or minority transactions from being unfairly affected. Additionally, the lack of clear valuation guidance creates uncertainty and may lead to subjective interpretation and disputes over whether shares derive their value from Kenya.

Committee Observation

The Committee acknowledged the concerns raised by EY but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for amendment and recommended that the clause be retained.

Clause 44

933. Delete the proposal because recovering the principal tax amount from a defaulting withholder may result in double taxation where the income has already been declared and taxed by the withholder. Given the effectiveness of the electronic tax system in reducing non-compliance, imposing additional tax on already declared income is excessive, disproportionate, and may amount to unjust enrichment by the KRA.

Committee Observation

The Committee considered the concerns raised by EY and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

934. Delete the proposal as allowing enforcement of agency notices during ongoing appeals would undermine taxpayers' rights to due process and may lead to premature recovery of disputed taxes, causing cash flow challenges. Further, difficulties in obtaining tax refunds could prejudice taxpayers who later succeed in their appeals.

Committee Observation

The Committee considered the concerns raised by EY and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

Clause 47

935. Amend to read as follows; 47 (1) (a) *Where a taxpayer has overpaid a tax under any tax law, the taxpayer may apply to the Commissioner in the prescribed form; (a) to offset the overpaid tax against all the taxpayer's outstanding tax debts and future tax liabilities including agency taxes* in order to clarify that overpaid tax may be offset against all outstanding tax debts and future tax liabilities, including agency taxes to remove any ambiguity in interpretation.

Committee Observation

The Committee noted EY's amendment. However, it was of the opinion that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified

tax credits. Therefore, the Committee resolved to the deletion of the clause.

Clause 49

936. Delete the proposal because the burden of proof in tax matters is borne by taxpayers. Calculating timelines for lodging objections and appeals based on working days ensures that taxpayers are afforded a reasonable opportunity to gather and present their case effectively, thus upholding the principles of fairness and procedural justice in the administration of tax disputes.

Committee Observation

The Committee considered the concerns raised by EY and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with EY and recommended deletion of the proposal.

Clause 31 (b)(1)

937. Amend the proposal to read as follows; *(b) the issue, transfer, receipt or any other dealing with money, including:*

(i) money transfer services

(ii) accepting over the counter payments of household bills

(iii) the services of carriage of cash, restocking of cash machines, sorting or counting of money;

(iv) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform

938. because it subjects digital financial services to VAT while other financial services remain exempt. This would increase the cost of digital transactions, undermine financial inclusion, discourage digitization, and potentially shift consumers back to less traceable cash transactions. Further, taxing financial services contradicts the nature of such services under the VAT Act, as they primarily involve the supply of money rather than value addition.

Committee Observation

The Committee acknowledged the concerns raised by EY but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32(b)

939. Delete the proposal and retain the relevant paragraph in the Second Schedule of the VAT Act as follows; *(21)* Transportation *of sugarcane from farms to milling factories* as maintaining the zero-rated status of sugarcane transportation supports the Government's agenda of revitalizing the sugar industry by allowing farmers to recover input VAT and avoid additional costs. Exempting the service would shift the VAT burden to farmers, increase transportation expenses, reduce investment in farm inputs, and potentially discourage sugarcane production.

Committee Observation

The Committee acknowledged the concerns raised by EY and agreed that rationalising VAT exemptions on the transportation of sugar will increase transportation costs. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 32(c)

940. Delete the proposal and retain the zero rated status of the supply or include the paragraph in Part I of the First Schedule of the VAT Act as follows; *163 inputs and raw materials purchased for the supply of locally assembled and manufactured mobile phones* because Exempting locally assembled and manufactured mobile phones from VAT would increase production costs by shifting the input VAT burden to manufacturers, leading to higher retail prices and undermining the Government's objective of promoting local manufacturing. Further, since the zero-rated status was only introduced under the Finance Act, 2023, insufficient time has passed to assess its impact, and changing the regime prematurely could disrupt industry operations.

Committee Observation

The Committee acknowledged the concerns raised by EY and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 32 (e)

941. Delete the proposal and retain the zero-rated status of the supplies or including the following paragraphs in Part A of the First Schedule of the VAT Act, 2013 as follows:

165 Inputs or raw materials locally purchased or imported for the supply of electric bicycles

942. because reclassifying green energy products from zero-rated to exempt would increase costs by denying recovery of input VAT, thereby undermining efforts to promote environmentally sustainable practices.

Committee Observation

The Committee acknowledged the concerns raised by EY and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of electric bicycles. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for electric bicycles as 8712.00.00. The Committee therefore recommended deletion of the proposal.

Clause 32 (f)

943. Delete the proposal and retain the zero-rated status of the supplies or including the following paragraphs in Part A of the First Schedule of the VAT Act, 2013 as follows:

166 Inputs or raw materials for the supply of solar and lithium-ion batteries

944. because reclassifying green energy products from zero-rated to exempt would increase costs by denying recovery of input VAT, thereby undermining efforts to promote environmentally sustainable practices.

Committee Observation

The Committee acknowledged the concerns raised by EY and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also

noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with EY and recommended deletion of the proposal.

Clause 32 (g)

945. Delete the proposal and retain the zero-rated status of the supplies or including the following paragraphs in Part A of the First Schedule of the VAT Act, 2013 as follows:

167 Inputs or raw materials for the supply of electric buses of tariff heading 87.02

946. because reclassifying green energy products from zero-rated to exempt would increase costs by denying recovery of input VAT, thereby undermining efforts to promote environmentally sustainable practices.

Committee Observation

The Committee acknowledged the concerns raised by EY and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of Electric Buses. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore recommended deletion of the proposal.

Clause 32 (i)

947. Delete the proposal and retain the zero-rated status of the supplies or including the following paragraphs in Part A of the First Schedule of the VAT Act, 2013 as follows:

168. Inputs or raw materials for the supply of Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel)

948. because reclassifying green energy products from zero-rated to exempt would increase costs by denying recovery of input VAT, thereby undermining efforts to promote environmentally sustainable practices.

Committee Observation

The Committee acknowledged the concerns raised by EY but observed that the proposed amendment transfers selected Bioethanol vapour from VAT zero-rated status to VAT exempt status in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term

Revenue Strategy. The Committee further noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clause 36(a)(i)

949. Delete the proposal as an increase in excise duty on mobile phones from 10% to 25% would significantly raise device costs, reduce affordability, and undermine digital inclusion and local manufacturing objectives. The higher tax burden may also shift demand to informal markets, strain financing models, and reduce Kenya's regional competitiveness.

Committee Observation

The Committee agreed with the concerns raised by EY and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore recommended deletion of the proposal.

NEW PROPOSALS

Income Tax Act, Section 22A

950. Amend Section 22A of the Income Tax Act to provide that the person is not eligible for deductions under this Section except for statutory pension contributions, as this will ensure employees can benefit from the proposal without being excluded due to pension contribution deductions arising from mandatory social security payments.

Committee Observation

The Committee noted the proposal by EY. The Committee further noted that the proposal would require further research and stakeholder consultation.

951. Amend Head B of the Third Schedule to:

a) Reduce the top PAYE rate from 35% to 30%;

b) Introduce a 5% reduction across all tax bands. Increase personal relief to KSh 3,000, effectively raising the tax-free threshold to KSh 30,000.

952. Rising taxes, statutory deductions, inflation, and the high cost of living have significantly reduced the disposable income and purchasing power of salaried individuals. Further, the current PAYE structure taxes individuals at higher rates than corporates, creating inequity for formal employees. Reducing PAYE rates would enhance disposable income, savings, consumption, investment, and economic growth,

while aligning with the Government's objectives of a more progressive tax system and improving Kenya's competitiveness compared to jurisdictions with lower tax rates.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns raised by EY.

3.3.37 CEREAL MILLERS ASSOCIATION AND THE GRAIN MILL OWNERS ASSOCIATION

NEW PROPOSAL

VAT Act

953. The stakeholder proposed that the Bill introduces VAT zero-rating on the supply or importation of mineral premix of Tariff 2106.90.92 used in food fortification. The stakeholder submitted that the VAT relief on key health and nutrition products will help to lower production costs and reduce public health challenges.

Committee Observation

The Committee noted the proposal by Cereal Millers Association. The Committee further noted that the proposal would require further research and stakeholder consultation.

Settlement of Pending Bills Owed to Grain Millers

954. Provide for immediate settlement of verified pending bills owed to grain millers and establish mechanisms to ensure timely payment of future obligations because outstanding arrears have imposed significant financial strain on small and medium millers and threatened the viability of businesses operating within the grain milling sector.

Committee Observation

The Committee noted the stakeholder's concern regarding the settlement of pending bills owed to grain farmers. However, the Committee observed that the matter does not form part of the Finance Bill, 2026.

3.3.38 KENYA UNION OF SAVINGS & CREDIT CO-OPERATIVES (KUSCCO) LIMITED

Clause 45

955. Delete the proposal to preserve the current protection against the issuance of agency notices where an appeal has properly been lodged.

Committee Observation

The Committee considered the concerns raised by KUSCCO and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

NEW PROPOSAL

Income Tax Act, Section 19A

956. Amend the meaning of '*primary society*' under Section 19A (7), by inserting the following words after individual persons. "- *groups of individual persons and corporate persons."* KUSCCO submitted that the law as is, limits SACCO membership to individuals only, despite the Co-operatives Societies Act allowing groups and corporates. The stakeholder submitted that the proposal above would ensure legal and policy harmony; promote fairness and tax neutrality; support financial inclusion; remove punitive tax outcomes; and strengthen SACCO stability.

Committee Observation

The Committee noted the proposal by KUSCCO. The Committee further noted that the proposal would require further research and stakeholder consultation.

Third Schedule Head B- Paragraph 1

957. Amend individual income tax bands by raising the tax-free rate threshold and widening all brackets for fairness and progressivity as below:-

Annual Income	Rate of Tax
On the first KSh 480,000	0%
On the next KSh 720,000	20%
On the next KSh 4,800,000	25%
On all income over KSh 6,000,000	30%

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of KUSCCO.

NEW PROPOSAL

Excise Duty Act, Section 2

958. Amend the definition of "*other fees*" by inserting the words 'any fee charged by a SACCO to its members' before the words "or interest on loan". The stakeholder submitted that this would align Section 5(1)(b) to Paragraph 4 of Part II of the First Schedule of the Excise Duty Act. Further, the proposal would ensure member-to-member dealings in a SACCO are not taxed since they are not income but collective contributions.

Committee Observation

The Committee noted the proposal by KUSCCO. The Committee further noted that the proposal would require further research and stakeholder consultation.

3.3.39 KIBOS PAPER AND PACKAGING LIMITED

NEW PROPOSALS

Excise Duty

959. KPPL proposed that the import duty on the products under the HS Codes 4802.55.00, 4804.11.00, 4804.19.00, 4804.31.00, 4804.39.00, 4804.49.00, 4805.11.00, 4805.19.00, 4805.24/25, 4808.40.00, 4810.92.00, 4819.10.00 be maintained at 25% or KSH 200 per kg, whichever is higher. Further, the duty remission should be suspended on all the listed HS Codes by deleting the words "and those originating from East African Community partner states that meet the East African Community Rules of origin". After deletion: All imports under this HS codes, including from EAC countries shall pay 25% or KES 200/kg. No special treatment for regional partners. This measure is intended to encourage local production, as there is adequate local capacity to manufacture paper from bagasse, a by-product, thereby helping to prevent deforestation. Local industries would also able to supply all the required paperboard needs in the country. Currently, local manufacturers are unable to get a market for

their products due to high volumes of the same imported under duty remission scheme.

Committee Observation
The Committee noted the proposal by Kibos Paper and Packaging Ltd. Further, the Committee noted the need to balance to provision of quality products in the market and revenue mobilization. Therefore, the Committee resolved to undertake a study to ascertain whether Kibos Ltd has capacity to manufacture quality and competitive products for the market.

Excise Duty

960. KPPL proposed that a duty on the products under the HS Code 4823.70.00 be increased from the current 25% to 35%, and the deletion of the words "and those originating from East African Community partner states that meet the East African Community Rules of origin". This increase in the duty on imported biodegradable tableware would encourage local manufacture of biodegradable products as the country has the capacity to manufacture environmentally friendly biodegradable tableware.

Committee Observation
The Committee noted the proposal by the stakeholder. However, the Committee observed that the matter does not form part of the Finance Bill, 2026. Therefore, the matter should be considered in the next cycle of the East Africa Ministerial Council of Ministers meeting.

961. KPPL proposed that the duty on imported plastic plates (HS Code 3919.90) be increased to 35% or KES 500 per kg, whichever is higher and deletion of the words "and those originating from East African Community partner states that meet the East African Community Rules of origin". After deletion: All imports of plastic plates under HS code 3919.90, including from EAC countries shall pay 25% or KES 200/kg. No special treatment for regional partners. An increase in import duty to 35% will enhance the competitiveness of locally produced biodegradable products. This will bring it into consistency with the policy direction adopted under the Miscellaneous Fees and Levies and Levies (Amendment) Act, which imposes import levies on products such as clinker, iron rods, and steel rods at the rate of 17.5% of the customs value.

Committee Observation
The Committee noted the proposal by the stakeholder. However, the Committee observed that the matter does not form part of the Finance

Bill, 2026. Therefore, the matter should be considered in the next cycle of the East Africa Ministerial Council of Ministers meeting.

962. KPPL proposed that the excise duty on imported plastic (HS Code 3919.90) plates be increased to 10% or KES 100 per kg, whichever is higher and deletion of the words "and those originating from East African Community partner states that meet the East African Community Rules of origin". The excise duty on imported plastic plate (HS Code 3919.90) at 10% would enhance the competitiveness of locally produced biodegradable products.

Committee Observation

The Committee noted the proposal by the stakeholder. However, the Committee observed that the matter does not form part of the Finance Bill, 2026. Therefore, the matter should be considered in the next cycle of the East Africa Ministerial Council of Ministers meeting.

963. Introduce excise duty KES 100 per kg of imported paper (HS Code 4802.55.00, 4804.11.00, 4804.19.00, 4804.31.00, 4804.39.00, 4804.49.00, 4805.11.00, 4805.19.00, 4805.24/25, 4808.40.00, 4810.92.00, 4819.10.00). Most of these paper grades are produced locally. However, local producers lack market because the same use the Duty Remission Scheme to import cheap international paper which is subsidized and which local producers cannot compete with based on landed costs and prices. This measure is intended to encourage local production, as there is adequate local capacity to manufacture paper from bagasse, a by-product, thereby helping to prevent deforestation and control environmental degradation by adding high value to this highly volatile waste material.

Committee Observation

The Committee noted the proposal by the stakeholder. However, the Committee observed that the matter does not form part of the Finance Bill, 2026. Therefore, the matter should be considered in the next cycle of the East Africa Ministerial Council of Ministers meeting.

964. KPPL proposed an excise duty KES 500 per kg on plastic plates produce locally. Plastic plates are non-biodegradable and therefore pose a significant environmental hazard, contributing to long-term pollution, blocked drainage systems, and increased waste management costs.

Committee Observation

The Committee noted the stakeholder's concern. However, there should be a balance between revenue mobilization and protecting manufacturers. Further, the proposal would require further research and stakeholder consultations.

965. KPPL proposed an imposition of an eco-levy of 5% as was proposed in the Finance Bill,2025 at KES 100 per kg of paper packaging made from wood. Imposing an eco-levy would create a circular economy, fund waste-management and environmental conservation as well as support Kenya's Green Economy Goals. Their continued use undermines national environmental sustainability goals and circular economy initiatives.

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation.

966. KPPL proposed that the work permit for prospective employees in the agro-based industries and processing be charged at KES 100,000 per year. The introduction of modernized agro-based plants requires specialized skills, that are currently limited in the country. The issuance of work permits at an annual fee of KES 100,000 would facilitate the importation of skilled labour required for the installation and management of modern machinery in capital-intensive new factories. This expertise will in turn be transferred to local professionals, thereby building local capacity and supporting long-term skills development within the sector.

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation

3.3.40 BAKER MCKENZIE

Clause 2(c)

967. Delete the proposed subparagraph (b) in the definition of 'royalty' that proposes to expand the definition of '*royalty*' to include software distribution when regular payments for use of software are made through the distributor.

968. Baker McKenzie submitted that the proposed sub-paragraph (b) is contrary to internationally accepted practice regarding the distinction between transactions in copyrighted articles and the exploitation of copyright rights. Further, it erodes investor confidence and had the potential to increase costs for Kenyan software users.

Committee Observation

The Committee agreed with Baker McKenzie's proposal and observed that the amendment would align with international best practices. The Committee therefore recommended the deletion of the provision.

3.3.41 EVANGELICAL ALLIANCE OF KENYA

Clause 2(b)

969. Delete the proposal as it may cause higher transaction costs passed to merchants and consumers, including young entrepreneurs who rely on international payment gateways or digital wallets.

Committee Observation

The Committee noted the concerns raised by the Evangelical Alliance of Kenya but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 16

970. Amend the proposal to ensure it narrows down only to cases of abuse of the provision in the Income Tax Act. The stakeholder submitted that this will protect genuine reinvestment and working capital by ensuring the law doesn't penalize reinvestment, retained earnings and ordinary treasury management.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility

Clause 18 and 19

971. Delete the proposal as it will lead to errors, more penalties and pressure for SMEs and loss-making firms in filing returns.

Committee Observation

The Committee acknowledged the Evangelical Alliance's concerns and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns

Clause 22

972. The Bill should structure the 1.5% WHT on scrap metal as a refundable credit for e-TIMS-registered dealers to reward formalization and restore Zero-Rated status for formal recyclers to allow for the recovery of input costs.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance's but was of the view that the proposed amendment provides a clear legal basis for taxing income from the sale of scrap metal, enhances traceability of transactions, addresses compliance challenges in the informal sector, and promotes fairness and consistency in the tax system.

Clause 23 (b)

973. Amend the proposal by clarifying the scope, threshold, exemptions and internal restructuring protections. The stakeholder cited that the proposal, as is in the Bill, creates transaction risk for Mergers and Acquisitions, Private Equity, family offices, real estate, infrastructure, and restructurings.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee

did not support the proposal on amendment and recommended that the clause be retained.

Clause 27

974. Amend the proposal to clarify the transition provisions for VAT claw-backs. Additionally, allow for acceleration of genuine refunds. The stakeholder submitted that the proposed new Section 17A of the VAT Act would introduce working-capital pressure on importers, distributors and SMEs.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

975. Delete the proposal as it represents a regressive policy reversal that places undue liquidity strain on businesses.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance of Kenay but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion and recommended retention of the proposal.

Clause 31(a)(ix)
Paragraph 160

976. Delete the proposal and retain inputs and raw materials for manufacture of animal feeds as zero-rated.

Committee Observation

The Committee acknowledged the concern raised by the Alliance and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.

Paragraph 161

977. Delete the proposal and retain inputs and raw materials for the manufacture of pharmaceutical products as zero-rated.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Paragraph 164

978. Delete the proposal and retain the supply of motorcycles under tariff head 8711.60.00 as zero-rated, as this supports affordable transport and helps regulate boda boda prices.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of motorcycles. Therefore, the Committee emphasized that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Paragraph 165

979. Delete the proposal and retain the supply of electric bicycles at zero rates since this provides an incentive for green energy and green transit options.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of electric bicycles. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for electric bicycles as 8712.00.00. The Committee therefore agreed and recommended deletion of the proposal.

Paragraph 166

980. Delete the proposal and retain the supply of solar and lithium-ion batteries as zero-rated so as to support the transition to green mobility.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 34

981. Delete or redesign the proposal that shifts excise duty on locally purchased or imported telephones towards the point of activation.

Committee Observation

The Committee acknowledged the concerns raised by the Evangelical Alliance and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay

revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36 (a)(i)

982. Delete, or amend by reducing the excise duty rate applicable to imported cellular phones since the proposed rate of 25% compromises affordability and digital-inclusion despite the import fee relief in the Bill.

Committee Observation

The Committee agreed with the concerns raised by the Evangelical Alliance and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

983. Delete the proposal as it weakens the taxpayer safeguards and cash-flow certainty.

Committee Observation

The Committee considered the concerns raised by the Evangelical Alliance and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 47

984. Delete the proposal since it would require importers to pay cash at the border even when the KRA already holds their funds in the form of tax credits, thus creating an artificial liquidity strain and increasing the cost of doing business. This restriction is

particularly punitive as it traps business capital in lengthy, audit-heavy refund processes while simultaneously demanding immediate cash outflows for new imports.

Committee Observation

The Committee considered the concerns raised by the Evangelical Alliance of Kenya and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

NEW PROPOSALS

Overall Proposal

985. The Committee should direct the National Treasury to produce and publish a simplified, non-technical version of the Finance Bill 2026, accessible to all citizens. The EAK submitted that the Finance Bill has historically attracted various interpretations. While the EAK acknowledge that it is a technical document, it is essential for the government to publish a citizen-friendly version alongside the Finance Bill. This will help reduce misinformation and prevent misinterpretations of the various amendments.

Committee Observation

The Committee noted the proposal by the Evangelical Alliance of Kenya and observed that publishing a simplified, citizen-friendly version of the Finance Bill would enhance public understanding, reduce misinformation, and promote meaningful public participation in the legislative process.

Overall Proposal

986. The EAK proposed a mandatory 12-month Tax Literacy and Systems Integration period during which the KRA must prioritize nationwide training over the provisions of Clause 29 of the Bill.

987. The proposed amendment to Section 42 of the VAT Act, which substitutes the term '*registered* person' with '*person*', effectively mandates that every Kenyan making a supply, regardless of whether they meet the Ksh 5 million VAT registration threshold, must now issue a tax invoice through e-TIMS. This technical shift poses a significant risk of taxation by ambush for the informal sector, as millions of small-scale traders may be unaware of this universal obligation or lack the necessary digital infrastructure and stable internet to comply.

988. Applying the proposed Section 86 of the Tax Procedures Act penalties, which include a minimum fine of Ksh 100,000 for companies or 200% of the tax due, without an awareness campaign violates the principle of fair administrative action and the spirit

of Article 210 of the Constitution, which requires that tax burdens be clearly provided for by law and understood by those they affect.

Committee Observation
The Committee acknowledged the sentiments raised by the Evangelical Alliance of Kenya therefore critical changes in legislation would need to be accompanied by stakeholder engagement as well as widespread outreach for persons and institutions affected by the proposals to enable effective compliance and ease of the intended law.

NEW PROPOSAL
Income Tax Act

989. Amend the Act to provide that 10% of the tax withheld on winnings is directed to Gambling Addiction and Mental Health Fund so as to address the rising social cost of gambling while still preserving the Universal Health Coverage of its vital capital.

Committee Observation
The Committee noted the proposal by the Evangelical Alliance.

Excise Duty Act, First Schedule – Part I

990. Amend the Excise Duty Act by raising the low-income smartphone tax exemption threshold from KES 8,000 to KES 20,000. The EAK cited that smartphones are tools of trade for freelancers and youth.

Committee Observation
The Committee noted the proposal by the Evangelical Alliance, and resolved to retain the current rates.

Income Tax Act, First Schedule – Part III

991. Harmonize the proposed '*winnings'* definition in the Income Tax Act (which correctly excludes the stake) with the '*amount deposited*' in the Excise Duty Act to prevent legal ambiguity and ensure a fair tax base that avoids a winning-loss scenario.

Committee Observation
The Committee noted the proposal by the stakeholder and resolved to harmonize taxation on betting.

992. The stakeholder observed an amendment intending to increase rental income tax to 10% from the current 7.5% citing it may lead to increased housings costs. The EAK proposed that the law should target non-compliance and not blanket escalation.

Committee Observation

The Committee noted the proposal by the stakeholder. However, the Committee observed that the matter does not form part of the Finance Bill, 2026

3.3.42 HHK CONSULTANCY

Clause 31(a)(vii)

993. Delete the proposal as it is a direct contradiction of the affordable housing agenda and may reduce the purchasing power of the affordable housing fund as it will make inputs in affordable housing more costly.

OR

994. If Clause 31(a)(vii) is upheld, the Ministry responsible for housing or the Affordable Housing Board be obligated to meet and settle the VAT cost on behalf of developers and contractors engaged in approved affordable housing schemes, so that the tax burden does not cascade into the cost of construction and ultimately into the price of housing units delivered to beneficiaries

Committee Observation

The Committee noted the concern raised by HHK Consultancy and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 32(b)

995. Delete the proposal and retain the zero rating of transportation of sugarcane from farms to milling factories. The zero-rated status will ensure cost burdens by transporters remain low and ensure consistency with the treatment of other agricultural supply chain services.

Committee Observation

The Committee acknowledged the concerns raised by HHK Consultancy and agreed that rationalising VAT exemptions on the transportation of sugar will increase transportation costs. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 36(a)(xxxv)

996. Delete the proposed excise duty on coal and retain the exempt status accorded under the Finance Act 2025. The stakeholder noted that coal remains a critical raw material in Kenya's energy mix, particularly for energy-intensive industries such as cement, steel, and manufacturing, which rely on it as a primary or supplementary fuel.

Committee Observation

The Committee acknowledged the concerns raised by HHK Consultancy but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

Clause 45

997. Delete the Clause and retain the current prohibition on issuing agency notices where a valid appeal remains open or is being actively pursued, since the consequences of an agency notice are immediate and operationally severe for a business.

Committee Observation

The Committee considered the concerns raised by HHK and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

Clause 46

998. The stakeholder supported the proposed repeal of Section 44A of the TPA.

Committee Observation

The Committee acknowledged the concerns raised by HHK Consultancy but noted that the proposed repeal of Section 44A of the Tax Procedures Act is intended to align import procedures with international standards and facilitate trade. The Committee further observed that the blanket requirement for Certificates of Origin imposes unnecessary compliance burdens, delays clearance, increases the cost of doing business, and conflicts with established customs practices under the East African Community framework.

NEW PROPOSALS

Income Tax Act, Section 13

999. Amend the ITA to provide that interest earned on funds held in the Affordable Housing Fund in respect of the Affordable Housing Levy be expressly exempted from income tax. The stakeholder submitted that this aligns with the spirit of the Affordable Housing Act and is proper due to the public and statutory nature of the funds.

Committee Observation

The Committee noted that the developed houses are now being sold and recommends that the Affordable Housing Board ensures that the Affordable Housing Fund be self-sustaining.

Section 15 (4)

1000. Insert a new Clause under subsection (4) as follows: -

'Any deficit incurred by a person as of 1st July 2025 shall be deemed to have been incurred in that year of income'

1001. HHK Consultancy submitted that the proposed provision will create clarity to taxpayers on how to account for tax losses that existed prior to the change in law vide the Finance Act 2025.

Committee Observation

The Committee noted the proposal by HHK.

NEW PROPOSAL

Value Added Tax Act, Section 17

1002. Insert a new subsection (7) under Section 17 of the VAT Act as follows: -

Notwithstanding the provisions of this Section, a registered person may make a deduction for input tax with respect to taxable supplies made to Kenya Defence Forces, the Defence Forces Welfare Services, the National Intelligence Service and the National Police Service in accordance with the First Schedule.

1003. The stakeholder submitted that under the current VAT framework, Oil Marketing Companies (OMCs) and other suppliers cannot recover input VAT incurred on supplies made to Kenya Defence Forces (KDF) and security agencies. Consequently, they're compelled to pass this cost on to the agencies. This directly undermines the intended benefit of the VAT exemption. The proposed amendment addresses this.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Value Added Tax Act, First Schedule – Part I

1004. Amend the Schedule by inserting:

'Poultry-keeping machinery and its associated components under HS Code 8436.29.00'

1005. The stakeholder submitted that this would remove significant barrier to entry into the sector, spur investment in poultry farming, support food security, enhance job creation and align with agricultural incentive policy.

1006. HHK Consultancy cited that this exemption should extend to all components forming part of a functionally integrated poultry-keeping system, including but not limited to housing structures, feeding and watering lines, feed silos, climate control and ventilation systems, curtain systems, brooding equipment, and alarm and monitoring devices, where such components are imported as part of a complete or partially knocked down poultry-keeping system.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Value Added Tax Act

1007. Provide that services procured directly by the Affordable Housing Board for the purposes of implementing approved affordable housing schemes and institutional housing projects be accorded VAT-exempt status.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

NEW PROPOSAL

Excise Duty Act, First Schedule

1008. Introduce an excise duty of 35% on imported bridges and bridge sections under HS Code 7308.10.00, with exemptions for locally fabricated units. This measure is intended to level the playing field for domestic manufacturers and incentivize sourcing from local fabricators.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty Act

1009. Introduce an excise duty of 35% on imported electric instantaneous shower heaters under HS Code 8516.10.00, with exemptions for locally manufactured units. The stakeholder proposed that local manufacturers of electric instantaneous shower heaters and their components are still in the early stages of establishing themselves in a market long dominated by imports. The proposal would protect domestic industries, deepen local value chains, create jobs, combat counterfeits and enhance quality assurance of the products.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty Act

1010. Introduce an excise duty of 35% on imported heating elements under HS Code 8516.90.00 specifically designated for use in electric instantaneous shower heaters, with exemptions for locally manufactured units.

1011. HHK Consultancy submitted that HS Code 8516.90.00 is a broad parts category covering components used across a wide range of electrothermic appliances. Limiting the excise duty to heating elements designated for use in electric instantaneous shower heaters ensures that the provision does not inadvertently affect importers of unrelated components such as heating elements for industrial ovens, hair dryers, or other appliances classified under the same heading.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty Act

1012. Introduce an excise duty at a rate of 35% or Kshs. 200 per kilogram, whichever is higher, on imported finished plastic plates and sheets of HS Code 3921.12.10 — Unprinted cellular plastic sheets of polymers of vinyl chloride.

1013. The stakeholder submitted that this would combat undervaluation and misdeclaration of imported plastic sheets, protect the domestic manufacturing industry, and support Kenya's electoral and advertising economy that depends on these plastics.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty Act

1014. Introduce an excise duty at a rate of 35% or Kshs. 200 per kilogram, whichever is higher, on imported finished plastic plates and sheets of HS Code 3921.90.10 — Other unprinted cellular plastic plates and sheets.

1015. The stakeholder submitted that this would combat undervaluation and misdeclaration of imported plastic sheets, protect domestic manufacturing industry and support Kenya's electoral and advertising economy that depends on these plastics.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty Act

1016. Delete the provision that imposes excise duty on float glass under HS Code 7005 at 35% of the excisable value or Ksh 500 per square meter whichever is higher.

1017. The stakeholder submitted that the current framework which requires the exemption to be operationalised upon the recommendation of the Cabinet Secretary responsible for matters relating to industry, fails to work as intended. They claimed that the responsible Cabinet Secretary is yet to issue or communicate the statutory exemption to KRA despite the compliance of processors of float glass under the HS Code 7005.

Committee Observation

The Committee noted the proposal by HHK. The Committee further noted that the proposal would require further research and stakeholder consultation.

Excise Duty Act

1018. The excise duty on imported sugar, excluding sugar imported by a registered pharmaceutical manufacturer and raw sugar imported for processing by a licensed sugar refinery, be increased from KShs. 7.50 per kilogram to KShs. 10.00 per kilogram.

1019. The stakeholder cited that the current rate remains insufficient to offset the cost advantage enjoyed by imported sugar relative to domestically produced sugar.

Committee Observation

The Committee noted the proposal by HHK, and resolved that this proposal is accepted.

NEW PROPOSALS

Tax Procedures Act

1020. Amended the TPA to expressly vest KRA with the full suite of enforcement, audit, assessment, and recovery powers available to it under that Act in relation to the Affordable Housing Levy.

1021. HHK Consultancy submitted that where an employer fails to deduct and remit the levy, or remits an incorrect amount, KRA lacks the statutory authority to audit the employer's compliance, raise a formal assessment, issue a demand notice, impose penalties for late payment or non-payment, or pursue recovery through the courts in the manner available to it for taxes administered under the Tax Procedures Act. The only remedy currently available is the 3% monthly penalty under Section 7 of the Affordable Housing Act, which, while useful, is insufficient as a standalone enforcement mechanism in the absence of the broader procedural and investigative powers that KRA deploys in the administration of taxes.

Committee Observation

The Committee accepted the proposal by HHK.

The Value added Tax Act, 2013

THAT the First Schedule to the Value Added Tax Act, 2013, be amended by inserting the following new paragraph immediately after the existing provisions under Part I:

"Plant, machinery, equipment and spare parts imported or purchased locally for use in a project whose total investment value is not less than Kenya Shillings Three Billion (KES 3,000,000,000), as certified by the Cabinet Secretary responsible for Finance upon recommendation of the relevant Government agency responsible for investment promotion, shall be exempt from Value Added Tax."

The amendment is to reduce capital investment costs, encourage strategic large-scale investments, create employment opportunities, and promote economic growth.

Committee Observation

The Committee supported the proposal by HHK.

3.3.43 SKM AFRICA LLP CERTIFIED PUBLIC ACCOUNTANTS

Clause 2(c)

1022. Amend the proposal because the proposed definition of "royalty" significantly expands what qualifies as a royalty to the detriment of consumers by increasing the cost of payment processing in Kenya, which risks pushing consumers toward cash transactions rather than cashless payment methods. Thus, amend to read as follows:

"royalty" means a payment made as a consideration for

a) the use or the right to use –

i. any copyright of a literary, artistic or scientific work;

ii. any software, proprietary or off the- shelf, whether in the form of licence, development, training, maintenance or support fees;

iii. any cinematograph film, including a film or tape for radio or television broadcasting;

iv. any patent, trademark, design or model, plan, formula or process;

v. any industrial, commercial or scientific equipment;

vi. information concerning industrial, commercial or scientific equipment or experience, and any gains derived from the sale or exchange of any right or property giving rise to that royalty;

vii. a proprietary digital platform, payment network, payment card scheme, payment processing system, switching system, clearing system or settlement system, including access, participation or usage rights in such system through a card, whether the consideration is periodic or transaction based and whether or not the payment is described as a service fee, transaction fee, network fee, assessment fee, processing fee or similar charge; or

(b) the distribution of software where regular payments are made for the use of the software through the distributor"

Committee Observation

The Committee acknowledged SKM's proposal however, the Committee noted that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 28

1023. Delete the proposal because extending the waiting period to three years places an undue cash flow burden on businesses, particularly SMEs, who must finance VAT remittances on debts they cannot recover from customers thus adversely impacting working capital.

Committee Observation

The Committee acknowledged the concerns raised by SKM but observed that reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In

addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 31(a)(vii)

1024. Delete the proposal because removal of the VAT-exempt incentive for the Affordable Housing Programme, as a stated priority of the Government, would create a direct inconsistency between fiscal policy and national housing policy, and reduce the attractiveness of such projects thus deterring private developers from participation. Furthermore, the proposal would increase the cost of construction materials for affordable housing developers by up to 16% translating directly into higher unit prices.

Committee Observation

The Committee noted the concern raised by SKM and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31(b)(i)

1025. Delete the proposal because it would increase the cost of digital financial transactions disproportionately affecting low-income users and micro-enterprises. Additionally, Kenyan-registered payment service providers would bear VAT compliance costs that may not apply to offshore digital service providers operating at lower volumes thereby creating a structural competitive disadvantage within the domestic market.

Committee Observation

The Committee acknowledged the concerns raised by SKM and therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(iv)

1026. Delete the proposal because removal of the preferential excise duty rate for licensed small independent brewers would risk driving production back into the informal sector resulting in a net loss of tax revenue rather than an increase. Furthermore, the sharp increase in excise duty would be passed down to consumers through higher retail prices redirecting consumption towards cheaper, unregulated

and illicit brews such as *chang'aa* whose toxic by-products like methanol destabilize households and incapacitate breadwinners.

Committee Observation

The Committee considered the concerns raised by SKM and agreed that removing the preferential excise duty rate for licensed small independent brewers would increase production costs and retail prices, making licensed products less competitive. The Committee further noted that the proposal could drive production and consumption toward unregulated and illicit brews, resulting in revenue losses, increased public health risks, and adverse social and economic consequences. The Committee therefore recommended deletion of the proposal.

Clause 36(a)(xxxv)

1027. Delete the proposal imposing a 10% excise duty rate on locally manufactured plastics because it would remove a key competitive advantage of Kenyan manufacturers resulting in increased production costs that reduce global competitiveness. Furthermore, plastic articles are critical inputs across sectors including agriculture (packaging), healthcare (single-use medical supplies) and retail and the proposal would thus increase consumer prices.

Committee Observation

The Committee noted the concerns of SKM and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 42

1028. Delete the proposal because it would significantly increase compliance uncertainty, erode taxpayer confidence and generate a material uptick in tax disputes without a commensurate improvement in revenue collection.

Committee Observation

The Committee acknowledged SKM's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to

prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

1029. Delete the proposal because it creates a risk of double taxation on the same income and an additional tax burden on the payer where they have no opportunity to pass the tax to the recipient. Furthermore, the proposal, if enacted, would cause withholding agents to be liable for the principal tax regardless of whether the recipient has already fully accounted for the applicable tax.

Committee Observation

The Committee considered the concerns raised by SKM and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

1030. Delete the proposal because permitting agency notices to be issued during a pending appeal could result in the collection of disputed tax before the conclusion of the appellate process resulting with cash-flow and dispute-cost consequences for affected taxpayers.

Committee Observation

The Committee considered the concerns raised by SKM and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

Clause 49

1031. Delete the proposal because it would materially reduce the effective time available to taxpayers to prepare and lodge objections and appeals particularly where deadlines fall near weekends or public holidays.

Committee Observation

The Committee considered the concerns raised by SKM and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed and recommended deletion of the proposal.

NEW PROPOSAL

1032. Amend the Income Tax Act to revise the lowest individual income tax band threshold to KES 600,000 per annum (KES 50,000 per month) to align Kenya's tax framework with current economic realities and cushion lower income earners.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores measures to cushion low-income earners.

3.3.44 THE AMERICAN CHAMBER OF COMMERCE (AMCHAM)

Clause 2(b)

1033. Delete the provision expanding the definition of "management or professional fee" because interchange fees and Managed Detection and Response (MDR) constitute operational settlement flows and cost-sharing mechanisms rather than management or professional services. This would increase transaction costs across the payment ecosystem, expose businesses to double taxation, discourage card acceptance by SMEs, increase costs for consumers, and create practical difficulties in identifying and withholding tax on interchange components embedded within merchant service fees.

Committee Observation

The Committee noted the concerns raised by AMCHAM but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be

addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

1034. Delete the proposal expanding the definition of "royalty" because it significantly broadens the scope of royalties beyond intellectual property rights and may subject operational and transactional fees to withholding tax. The clause would increase the cost of digital and card transactions, discourage adoption of cashless payment systems, create uncertainty regarding intra-group arrangements, overlap with the Significant Economic Presence regime, and expose taxpayers to double taxation.

Committee Observation

The Committee noted the concerns raised by AMCHAM but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 4(1)

1035. Amend the clause by deleting Paragraph 10 of the Third Schedule (Head B) and replacing it with the following—

"The rate of tax in respect of rental income shall be –

a. seven-point five percent (7.5%) of the gross rental receipts derived by a taxable resident person under section 6A in respect of residential rental income;

b. ten percent (10%) of the gross rental receipts derived by a taxable non-resident person under section 6B in respect of non-residential rental income."

1036. In addition, Paragraph 3 (c) (1) of the Third Schedule (Head B) be deleted in its entirety. The proposed regime taxes gross income without allowing deductions for related expenses. The stakeholder further noted that shifting from withholding tax to self-declaration would reduce the compliance burden on resident tenants and improve tax administration for non-resident property owners.

Committee Observation

The Committee acknowledged the concerns raised by AMCHAM but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 9(a)

1037. Amend the clause to read as:

"Section 12 of the Income Tax Act is amended by deleting subsection (1)".

1038. The proposed provision duplicates an already existing exemption applicable to individuals whose emolument income is fully taxed under PAYE. The stakeholder further noted that the duplication creates unnecessary ambiguity and administrative inefficiencies.

Committee Observation

The Committee acknowledged the concerns raised by AMCHAM but observed that the proposed amendment exempts taxpayers with only employment income from instalment tax following the repeal of the minimum tax provisions, thereby restoring the original intent of applying instalment tax mainly to non-PAYE income. The Committee further noted that the amendment improves clarity and compliance certainty, and that deleting the provision would be unnecessary and could affect the operation of the instalment tax framework.

Clause 16

1039. Delete the proposal introducing deemed dividend distribution thresholds because the amendment grants the Commissioner excessive discretionary powers to determine whether a company ought to distribute at least sixty per cent of its income as dividends. Additionally, this provision may conflict with directors' fiduciary duties under the Companies Act, discourage reinvestment, and create uncertainty for businesses retaining earnings for operational, capital expenditure, or expansion purposes.

Committee Observation

The Committee acknowledged the concerns raised by AMCHAM and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered

it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clauses 18 and 19(a)

1040. Delete the provision reducing the statutory deadline for filing income tax returns from six months to four months because the reduced timeline would create operational and compliance challenges for taxpayers already dealing with instalment tax payments, year-end adjustments, and ongoing transition to digital tax systems such as e-TIMS. The audit processes for financial statements frequently extend beyond four months, increasing the likelihood of inaccurate or provisional tax returns. However, the stakeholder supported the proposal requiring NIL returns to be filed within one month after year-end because it enhances compliance visibility without imposing undue burden.

Committee Observation

The Committee acknowledged AMCHAM's concerns and noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23(d)

1041. Delete the proposal introducing taxation of gains derived from alienation of shares by non-resident persons as the amendment departs from international tax norms, creates investor uncertainty, exposes taxpayers to double taxation, and undermines Kenya's competitiveness as a regional investment hub. Further, the proposal lacks clear value-derivation thresholds, does not exempt intra-group reorganisations, and creates uncertainty regarding the meaning of "derived from Kenya" and "change in group membership."

Committee Observation

The Committee acknowledged the concerns raised by AMCHAM but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any

attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for deletion and recommended that the clause be retained.

Clause 31(a) (ix) (163) and Clause 32(c)

1042. Delete clause to retain zero-rating for mobile phones because the proposed shift from zero-rating to VAT exemption removes suppliers' ability to recover input VAT and effectively shifts the tax burden to consumers through higher prices. The concurrent introduction of twenty-five per cent excise duty at activation would undermine affordability of smartphones, weaken incentives for local assembly and manufacturing, and negatively affect digital inclusion and access to digital services.

Committee Observation

The Committee acknowledged the concerns raised by AMCHAM and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 35

1043. Delete the proposal shifting excise duty liability on telephones for cellular and wireless networks from importation or manufacture to activation because the amendment creates significant legal uncertainty and administrative impracticality. The term "activation" is undefined and may result in disputes involving dual-SIM devices, reactivation, refurbished devices, warranty replacements, and grey-market imports. Further, the proposal does not clearly identify the liable party among importers, manufacturers, distributors, and telecommunications operators.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(i)

1044. Retain the exemption of locally assembled mobile phones from excise duty because the proposed twenty-five per cent excise duty on telephones for cellular and wireless networks would increase the overall tax burden on consumers, undermine affordability, and weaken incentives for domestic manufacturing and industrialisation.

Committee Observation

The Committee agreed with the concerns raised by AMCHAM and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore recommended deletion of the proposal.

Clause 36(a)(xxxv)

1045. Delete the proposal increasing excise duty on fruit and vegetable juices because the proposed rates would significantly increase retail prices, reduce consumption volumes, negatively affect the agricultural value chain, and ultimately reduce overall tax revenues. The stakeholder further noted that the proposal would adversely affect smallholder farmers, fruit processors, and manufacturers while increasing substitution towards informal and unregulated beverage products.

Committee Observation

The Committee acknowledged the concerns raised by AMCHAM but ultimately supported retaining the excise duty increase. On the specific concern regarding harm to the agricultural value chain, the Committee noted that the public health objective of discouraging consumption of sugar-sweetened beverages took precedence.

Clause 36(a)(xiii)

1046. Delete the proposal removing the excise duty exemption applicable to imported glass bottles sourced from East African Community partner states because the amendment contravenes regional trade obligations under the East African Community framework and may trigger retaliatory measures from partner states. Additionally, this would increase packaging costs, disrupt regional supply chains, undermine sustainability objectives, and negatively affect manufacturers relying on regional sourcing due to insufficient domestic glass manufacturing capacity.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case by case basis rather than a blanket exclusion.

Clause 36(a)(xi)

1047. Delete the proposal imposing excise duty on locally manufactured articles of plastic because repeated changes in the taxation of plastic products create policy uncertainty, undermine investor confidence, increase manufacturing costs, and reduce competitiveness of Kenyan manufacturers within the East African region. Similarly, this would result in multiple taxation of packaging materials and increase costs for consumers and manufacturers alike.

Committee Observation

The Committee noted the concerns of the stakeholder and observed that there are several provisions relating to articles of plastics. Therefore, it resolved to clean up the multiple provisions referencing articles of plastics and resolved that excise duty should only be applied on imported articles of plastics.

Clause 45

1048. Delete the proposal repealing Section 42(14)(e) of the Tax Procedures Act because removal of the restriction on issuance of agency notices during pendency of appeals undermines taxpayers' constitutional rights to due process and access to justice. The stakeholder further noted that the proposal contradicts judicial precedent and may expose taxpayers to unfair enforcement action before exhaustion of dispute resolution mechanisms.

Committee Observation

The Committee considered the concerns raised by AMCHAM and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with AMCHAM and recommended deletion of the proposal.

Clauses 55(a) (ii) and 55(b)(ii)

1049. Amend the proposal exempting imported telephones from Import Declaration Fee and Railway Development Levy by reducing or gradually phasing in the proposed twenty-five per cent excise duty because the reduction in import levies is outweighed by the substantial increase in excise duty, thereby increasing the overall cost of mobile

phones for consumers. The stakeholder further noted that higher smartphone prices may slow digital inclusion, mobile money adoption, and access to digital government services.

Committee Observation

The committee noted the concerns of AMCHAM and resolved to delete the proposal in the Bill.

Clause 49

1050. Amend the proposal on computation of time by extending statutory timelines for lodging objections and appeals from thirty days to forty-five days because inclusion of weekends and public holidays in computation of time reduces the effective period available to taxpayers to prepare responses in complex tax matters. The stakeholder further noted that extending timelines would balance administrative efficiency with protection of taxpayers' procedural rights.

Committee Observation

The Committee considered the concerns raised by AMCHAM and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore recommended deletion of the proposal.

NEW PROVISIONS

Income Tax Act, Section 9(2) on Clarification of Communication Transmission Infrastructure Services

1051. Amend Section 9(2) of the Income Tax Act to expressly clarify that the provision applies only to communication transmission infrastructure services and does not extend to over-the-top digital services such as streaming platforms, gaming services, or digital content distribution because the current wording creates uncertainty and risks overlapping taxation with other digital tax regimes such as Significant Economic Presence Tax and VAT on imported digital services.

Committee Observation

The Committee noted that the proposal would unduly narrow the scope of Section 9(2) and create avoidance opportunities in an increasingly converged digital and communications environment where service delivery frequently blends infrastructure and content layers. Introducing a rigid statutory exclusion for OTT, streaming, gaming, and software services

risks fragmenting the tax base, undermining the neutrality of the provision, and weakening Kenya's ability to adapt its tax framework to evolving digital business models. Existing interpretational flexibility is intentionally designed to capture functional equivalents of communication services and should be preserved to avoid rapid obsolescence of the legal framework and potential revenue leakage through reclassification of services. As such the proposal was not supported.

Income Tax Act - Exclusion of Digital Content Transactions from Withholding Tax on Digital Marketplaces

1052. Amend the provisions on withholding tax applicable to payments made or facilitated over digital marketplaces by expressly excluding business-to-consumer digital content transactions such as music, video, gaming, applications, and in-app purchases because the current provisions create operationally unworkable withholding obligations and expose the same transactions to overlapping VAT and withholding tax obligations.

Committee Observation

The Committee noted the proposal would create an overly broad exemption that weakens the withholding tax framework under Section 10(1)(m), which is designed to capture Kenya-source income arising from value created through digital marketplaces, including payment facilitation functions. Carving out B2C digital goods and content transactions such as streaming, gaming, and app purchases would introduce definitional boundary issues, increase classification disputes, and create a significant risk of base erosion where transactions are easily recharacterized to fall outside withholding tax. Any perceived overlap with VAT on digital services or SEP taxation does not constitute double taxation in policy terms, as these regimes target different tax bases and together ensure comprehensive taxation of the digital economy. As such the proposal is not supported.

Extension of the Tax Loss Carry-Forward Period

1053. Amend the proposal limiting carry-forward of tax losses by extending the carry-forward period to seven years with an optional three-year extension and clarifying that losses accumulated before 1 July 2025 remain indefinitely deductible because capital-intensive sectors require longer recovery periods and retrospective limitation would unfairly prejudice taxpayers who invested under the previous framework.

Committee Observation

The Committee noted that the proposal would significantly erode the integrity of the income tax base by reintroducing indefinite carry-forward

of historical losses, thereby creating open-ended revenue exposure and weakening fiscal predictability. As such the proposal is not supported.

VAT Act, First Schedule

1054. Amend the First Schedule to the VAT Act to expressly exempt blood tubing lines used in dialysis because the products perform the same clinical function as blood and fluid infusion sets which are already VAT exempt. Imposing VAT on dialysis tubing would increase treatment costs, reduce affordability of renal care, and undermine the achievement of Universal Health Coverage objectives.

Committee Observation

The Committee noted that blood tubing lines are generally multipurpose consumables used across different medical procedures beyond dialysis, making their classification for VAT exemption on a condition-specific basis difficult to define, administer, and enforce. Granting exemption on this basis would introduce classification disputes, create opportunities for misclassification across similar medical consumables, and erode the neutrality of the VAT system. As such the proposal was not supported.

Excise Duty Act, Section 14 - Relief on Packaging Materials Used in Manufacture

1055. Amend Section 14 of the Excise Duty Act to allow relief for excise duty paid on both raw materials and packaging materials used in the manufacture of excisable goods because packaging materials form an essential component of the production process and their exclusion results in cascading taxation and increased production costs. Extending the relief would support investment, economic recovery, recycling initiatives, and development of Kenya's circular economy.

Committee Observation

The Committee does not support the proposal by the stakeholder.

Gambling Control Act, 2025 - Alignment of the Definition of Gaming

1056. Amend the provisions relating to gaming to expressly align the definition with the Gambling Control Act, 2025 and exclude video gaming, esports, fantasy sports, and other skill-based digital entertainment because the current wording may unintentionally subject digital entertainment and creative economy sectors to gaming taxes that were intended for gambling activities. Such an interpretation may discourage innovation, undermine growth of the digital economy, and negatively affect Kenya's creative industry objectives.

Committee Observation

The Committee noted that introducing a restrictive statutory definition of "gaming" would unduly narrow the scope of the Excise Duty Act and create

avoidance opportunities in an increasingly converged digital environment where gambling, gaming, and in-app monetisation mechanisms often overlap in form and function.

3.3.45 COCACOLA

Clause 16

1057. Delete the proposal introducing deemed dividend distribution thresholds because the amendment grants the Commissioner broad discretionary powers to determine whether income should be distributed as dividends despite directors having fiduciary responsibility under the Companies Act to determine appropriate retention of earnings for operational, expansion, and strategic purposes. This provision creates uncertainty for taxpayers and may discourage reinvestment and business growth by penalising prudent commercial decisions to retain earnings.

Committee Observation

The Committee acknowledged the concerns raised by CocaCola and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18

1058. Delete the proposal reducing the filing timeline for income tax returns from six months to four months because many taxpayers rely on completion of statutory audits, regulatory approvals, group reporting processes, and complex reconciliations before finalising returns. The stakeholder further noted that shortening the filing period would increase the likelihood of provisional filings, amended returns, disputes, inaccuracies, and unintended non-compliance.

Committee Observation

The Committee acknowledged CocaCola's concerns and noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee

recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23(d)

1059. Delete the proposed new subparagraph because the existing framework under the Eighth Schedule to the Income Tax Act already captures gains arising from disposal of shares deriving value from immovable property situated in Kenya and from disposal of significant shareholding interests in Kenyan resident companies. The proposed clause departs from international tax norms, creates legal uncertainty, exposes taxpayers to double taxation, discourages foreign direct investment, and undermines Kenya's competitiveness as a regional investment hub. Additionally, the proposal lacks clear value-derivation thresholds, does not exempt intra-group reorganisations, and fails to define critical terms such as "derived from Kenya" and "change in group membership."

Committee Observation

The Committee acknowledged the concerns raised by CocaCola but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for deletion and recommended that the clause be retained.

Clause 36(a)(xxxv)

1060. Delete the clause introducing new excise duty rates on fruit and vegetable juices because the proposed increase would significantly raise retail prices, reduce consumption volumes, negatively affect manufacturers, distributors, retailers, and smallholder farmers, and ultimately diminish overall Government revenue collections from VAT, PAYE, and corporate income tax. Further, the proposed distinction between products containing added sugar and naturally occurring sugars is administratively difficult to implement due to absence of sufficient regulatory and testing frameworks. This provision would adversely affect Kenya's agricultural value chain by reducing demand for fruit puree and raw produce sourced from farmers.

Committee Observation

The Committee acknowledged the concerns raised by CocaCola but ultimately supported retaining the excise duty increase. On the specific concern regarding harm to the agricultural value chain, the Committee noted that the public health objective of discouraging consumption of sugar-sweetened beverages took precedence.

Clause 36(a)(xiii)

1061. Delete the provision removing the proviso exempting imported glass bottles sourced from East African Community partner states because the amendment contravenes EAC Protocol obligations, risks the introduction of retaliatory trade measures, and undermines regional integration commitments under the EAC, COMESA, and African Continental Free Trade Area frameworks.

1062. The stakeholder further noted that the proposal would increase packaging costs, disrupt regional supply chains, reduce the competitiveness of Kenyan manufacturers, and undermine environmental sustainability objectives by discouraging the use of recyclable glass packaging materials. Additionally, Kenya's domestic glass manufacturing capacity remains insufficient to meet current market demand and technical specifications.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 36(a)(xi)

1063. Delete the proposal to impose excise duty on locally manufactured plastic articles because repeated amendments to the excise duty treatment of plastic products create policy uncertainty, undermine investor confidence, and weaken Kenya's competitiveness as a regional manufacturing hub. Imposing excise duty on locally manufactured plastics would increase production costs, lead to multiple taxation of packaging materials, and adversely affect food, beverage, pharmaceutical, and agrochemical manufacturers that rely on plastic packaging. Additionally, the proposal undermines long-term capital investment planning within the plastics manufacturing sector.

Committee Observation

The Committee noted the concerns by CocaCola and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 45

1064. Delete the proposal permitting issuance of agency notices despite pending appeals because the amendment undermines taxpayers' constitutional right to fair administrative action and weakens the effectiveness of the statutory tax dispute resolution framework. Additionally, taxpayers would be compelled to seek stay orders before pursuing substantive appeals, thereby increasing compliance burdens and creating an unfavourable business environment likely to discourage investment.

Committee Observation

The Committee considered the concerns raised by CocaCola and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

NEW PROPOSALS

Excise Duty Act, Section 14 - Relief for Raw Materials and Packaging Materials Used in Manufacture

1065. Amend Section 14 of the Excise Duty Act to allow offset of excise duty paid on both raw materials and packaging materials used in the manufacture of excisable goods because packaging materials constitute essential components within the manufacturing process and exclusion from relief results in cascading taxation, increased production costs, and higher consumer prices. Extending the relief would support investment, manufacturing recovery, recycling initiatives, and advancement of Kenya's circular economy objectives while improving the competitiveness of local manufacturers.

Committee Observation

The Committee noted the proposal by the stakeholder. However, excise relief on raw materials is meant to prevent tax cascading on production inputs, not to subsidise packaging, which is a distinct, taxable component of the finished product. Allowing rebates on packaging materials undermines the design of excise taxation and creates an uneven playing field between manufacturers. As such the proposal was not supported.

3.3.46 KENYA NATIONAL CHAMBER OF COMMERCE AND INDUSTRY (KNCCI)

Clause 2(a)

1066. Adopt the proposal in the definition of immovable property because it clarifies that each limb of the definition may independently qualify as immovable property, thereby reducing interpretational disputes in the application of capital gains tax and other tax provisions. The stakeholder, however, recommended the issuance of guidance by the Kenya Revenue Authority (KRA) to prevent overly broad interpretations that could create uncertainty for investors in land, mining, petroleum, and property transactions.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI on the need for guidance from KRA.

Clause 2(b)

1067. Amend the proposal to expand the definition of "management or professional fee," as the amendment may increase withholding tax exposure for banks, fintechs, merchants, card networks, and payment processors, while raising the cost of digital payments and discouraging cashless transactions. The stakeholder further submitted that merchant service fees should be expressly defined to avoid multiple taxation of the same transaction and recommended stakeholder consultations with banks, fintechs, card companies, merchants, and Micro, Small, and Medium Enterprises (MSME)s.

Committee Observation

The Committee noted the concerns raised by KNCCI but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

1068. Amend the proposal to expand the definition of royalty, as it significantly broadens the royalty tax base and may increase costs for software users, fintechs, payment processors, card schemes, and digital businesses. Ordinary software subscriptions,

cloud services, platform access fees, and payment processing charges should not automatically be treated as royalties unless intellectual property rights are transferred.

Committee Observation

The Committee acknowledged KNCCI's proposal and noted that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 2(d)

1069. Amend the proposal revising the definition of withdrawals because frequent changes to betting and gaming taxation create uncertainty for operators. Tax should apply only to actual winnings and not to the stake, principal deposit, or withdrawal of a player's own funds in order to avoid double taxation.

Committee Observation

The Committee noted the concerns raised by KNCCI. However, it observed that the proposed amendment only broadens the definition of "withdrawals" to ensure the uniform application of withholding tax across both online and land-based betting activities by resolving ambiguity that excludes land-based betting and gaming establishments that operate through cash and cash-equivalent instruments from the tax net, resulting in unequal tax treatment and revenue leakage.

Clause 2(e)

1070. Amend the proposal introducing the definition of "winnings" because clarity is required to ensure that withholding tax applies only to actual winnings and excludes the amount staked or wagered. The stakeholder further submitted that the charging provision should be clearly drafted to avoid double taxation within the gaming sector.

Committee Observation

The Committee noted the proposal by the stakeholder and resolved to harmonize taxation on betting.

Clause 8

1071. Accept the clause clarifying the taxation of income received by trustees, executors, and administrators because it provides certainty that such income will be taxed at that level while preventing double taxation of beneficiaries where tax has already been paid. The stakeholder, however, recommended issuance of guidance on beneficiary distributions, estate administration, and treatment of dividend and interest income.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI on the need for issuance of guidance on beneficiary distributions, estate administration, and treatment of dividend and interest income.

Clause 10

1072. Adopt the proposal allowing deduction of interest not exceeding Ksh360,000 paid by an employee on an employer loan for the construction, purchase, or improvement of an occupied house because it promotes employee welfare and may encourage employer-assisted housing initiatives. The stakeholder further recommended simplified employer guidance to facilitate implementation.

Committee Observation

The Committee acknowledged KNCCI's concern but noted that extending mortgage interest relief to Central Bank of Kenya employees who already receive loans at preferential rates would create inequality in the tax system, as it would amount to an additional benefit over and above the concessional lending terms enjoyed by such employees compared to other taxpayers. The Committee therefore resolved to delete the proposal.

Clause 11

1073. Adopt the clause replacing "lending and leasing business" because the amendment broadens the exemption from interest restriction rules to non-deposit-taking institutions involved in lending, leasing, or both, thereby improving access to financing, leasing, and credit facilities for businesses and MSMEs.

Committee Observation

The Committee supported the proposal by KNCCI.

Clauses 12 and 13

1074. Amend the proposed changes relating to Country-by-Country Reporting, Master Files, Local Files, and related definitions, as some provisions appear to be housekeeping proposals and cross-reference corrections, and drafting improvements are necessary to eliminate ambiguity. The stakeholder further recommended that KRA should issue clear templates, thresholds, and filing guidance for multinational enterprise groups before implementation.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI but observed that the proposed amendment cleans up Section 18D by correcting cross-references and clarifying Country-by-Country reporting obligations for multinational enterprise groups, thereby enhancing legal certainty and supporting consistent application of the reporting

framework. The Committee further noted that the reporting threshold is aligned with internationally accepted OECD/G20 standards, and that lowering the threshold or requiring publication of reporting information could increase compliance burdens and raise taxpayer confidentiality concerns.

Clause 14

1075. Accept the proposal replacing the term "life insurance fund" with "statutory fund" because it harmonises the Income Tax Act with terminology used under the Insurance Act. The stakeholder nevertheless recommended consultation with the insurance sector and issuance of transitional guidance to facilitate implementation.

Committee Observation

The Committee is in agreement with KNCCI.

Clause 15

1076. Adopt the repeal of Section 23 of the Income Tax Act because the amendment removes duplication arising from the consolidation of anti-avoidance provisions under the Tax Procedures Act. The stakeholder, however, recommended that the new anti-avoidance framework should include taxpayer safeguards, notice requirements, and clear appeal rights.

Committee Observation

The Committee is in agreement with KNCCI.

Clause 16

1077. Amend the proposal introducing deemed dividend treatment on at least sixty per cent of undistributed income because the amendment may adversely affect businesses that retain earnings for expansion, capital expenditure, debt servicing, or working capital requirements. The stakeholder further noted that retained earnings used for genuine commercial purposes should not be treated as deemed dividends and recommended inclusion of clear commercial-substance safeguards.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 17

1078. Amend the proposed withholding tax changes, or retain the sector-specific exemptions where justified, because the deletion of certain exemptions and the introduction of withholding tax on additional payments may increase cash-flow pressures, contractual costs, and operational expenses, particularly in sectors where services are not readily available locally.

Committee Observation

The Committee noted the proposal by the stakeholder and resolved to harmonize taxation on betting.

Clause 18

1079. Delete the provision reducing the filing deadline for income tax returns from six months to four months because the shortened timeline may increase compliance costs and administrative burdens for taxpayers, particularly MSMEs, dormant companies, and entities operating at a loss. The stakeholder recommended retention of the current six-month filing period or introduction of a phased transition.

Committee Observation

The Committee acknowledged KNCCI's concerns and noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19(b)

1080. Amend the proposal requiring nil returns to be filed within one month after year-end because the timeline may be impractical for many taxpayers. The stakeholder recommended extending the filing period for nil returns to at least three months.

Committee Observation

The Committee observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. The Committee therefore recommended retention of the proposal.

Clause 20

1081. Adopt the clause exempting capital gains relating to transfer of property to a Real Estate Investment Trust because the amendment supports formal real estate investment and capital market development.

Committee Observation

The Committee while supporting the proposal by KNCCI, observed that while the proposed exemption supports capital market development through REITs, it lacks adequate safeguards and could be exposed to abuse through artificial restructurings, quick cash-outs, or related-party transactions. The Committee further noted that aligning the provision with international best practice requires clear anti-abuse conditions, including that transfers be undertaken for bona fide commercial purposes, consideration be in REIT units, transferred property be retained in the REIT for a minimum period, and that transferors do not retain controlling interests post-transfer. In view of these concerns, the Committee recommended amendment of the clause to incorporate the necessary safeguards while retaining the policy intent of the exemption as contained in the Bill.

Clause 22

1082. Amend the proposal introducing withholding tax rates of 1.5 percent on the sale of scrap metal and 20 percent (20%) on winnings because the measures affect recyclers, scrap metal dealers, and betting operators, many of whom are MSMEs. The stakeholder further recommended simplified collection mechanisms, taxpayer education, and clarification that withholding tax on winnings excludes the amount staked or wagered.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and resolved to harmonize taxation on betting on winnings.

Clause 23

1083. Amend the proposal taxing gains arising from alienation of shares by non-residents because the amendment may affect mergers, acquisitions, foreign investment, capital raising, and corporate restructuring while potentially capturing offshore transactions where only part of the value is derived from Kenya. The stakeholder suggested objective nexus and materiality thresholds, proportional attribution to Kenyan-derived value, valuation guidance, treaty safeguards, and exclusions for bona fide internal group reorganisations where beneficial ownership remains unchanged.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax

framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for amendment and recommended that the clause be retained.

Clause 26

1084. Amend the proposal on VAT treatment of hire purchase transactions because taxing finance charges may increase the cost of acquiring productive assets and equipment, particularly for MSMEs that rely on asset financing arrangements.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI but observed that the proposed amendment clarifies the VAT treatment of financial charges by limiting the exclusion to agreements regulated under the Hire Purchase Act, while expressly ensuring that financial charges are included in the taxable value where appropriate to prevent avoidance and ensure consistent VAT treatment of hire purchase arrangements. The Committee further noted that the amendment is intended to address existing ambiguity that has allowed taxpayers to structure sales agreements to resemble hire purchase arrangements and shift value into non-taxable finance charges, thereby reducing output VAT and creating VAT leakage through aggressive contractual structuring and inconsistent application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 27

1085. Amend the proposal requiring adjustment of input VAT where taxable supplies become exempt, and unsold stock remains, because the amendment may create significant cash-flow pressures for businesses holding inventory, raw materials, components, spare parts, and work-in-progress. The stakeholder proposed a transitional period of six to twelve months, prospective application, and progressive utilisation-based input VAT adjustments.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to

exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 31(a)(ix) (163)

1086. Delete the proposal reclassifying locally assembled and manufactured mobile phones from zero-rated to exempt status and retain zero-rated treatment because the amendment would prevent recovery of input VAT on components, raw materials, utilities, spare parts, and other production inputs, thereby increasing production costs and consumer prices. The stakeholder further noted that the exemption may increase overall production costs where suppliers are unable to recover input VAT. Retaining zero-rating for mobile phones and productive inputs would support local manufacturing, preserve affordability, prevent accumulation of unrecoverable VAT, and advance digital inclusion objectives.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 31(b) (i)

1087. Delete the proposal to subject certain digital and platform-based financial services to VAT, as the amendment may increase transaction costs, undermine financial inclusion, discourage digital payments, and create uncertainty between financial intermediation services and standalone technology services. Retain VAT exemption for payment processing, merchant settlement, gateway aggregation, and related payment infrastructure services.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee

further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32

1088. Delete the proposal removing favourable VAT treatment from electric motorcycles, electric buses, electric bicycles, and other productive inputs because this may increase the cost of clean mobility solutions and undermine transport affordability.

Committee Observation

The Committee was in agreement with KNCCI.

Clause 34

1089. Delete the proposal shifting excise duty liability on mobile phones from importation or manufacture to activation because the amendment departs from established excise duty principles and may create compliance challenges involving telecom operators, importers, manufacturers, distributors, device-financing platforms, and consumers.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the Committee recommended deletion of the proposal.

Clause 35

1090. Amend the proposal requiring payment of excise duty on telephones at the point of device activation because implementation without comprehensive regulations may create uncertainty and disputes. The stakeholder recommended phased implementation or a pilot programme together with regulations defining payment triggers, reporting obligations, and adjustment mechanisms.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection

from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(i)

1091. Delete the proposal imposing a 25% excise duty on telephones for cellular and wireless networks, as mobile phones are essential tools for MSMEs, e-commerce, mobile banking, communication, tax compliance, and financial inclusion. The stakeholder further noted that extending the tax to locally assembled and manufactured devices may undermine local manufacturing, increase device prices, and reduce affordability for low-income consumers and first-time smartphone users.

Committee Observation

The Committee agreed with the concerns raised by KNCCI and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with KNCCI and recommended deletion of the proposal.

Clause 36(c) (i)

1092. Amend the proposal broadening the excise duty base from amounts deposited into betting wallets to amounts deposited for betting or gambling purposes because the amendment may increase costs for betting and gaming operators and create overlap with other tax measures applicable to the sector. The stakeholder recommended consistency across income tax, excise duty, and withholding tax treatment of betting and gaming activities.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and observed that the proposals in the Bill harmonise terms and definitions relating to betting and gaming activities under the Excise Duty Act.

Clause 38

1093. Amend the proposal requiring Virtual Asset Service Providers to file information returns and permitting exchange of information with foreign jurisdictions because the

amendment raises concerns relating to data protection, privacy, and cybersecurity, notwithstanding its objective of strengthening digital economy reporting.

Committee Observation

The Committee acknowledged KNCCI's concerns but amended the proposal by introducing a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements.

Clause 41

1094. Amend the proposal granting the Commissioner powers to determine tax liabilities arising from tax avoidance schemes because the amendment requires adequate safeguards to protect taxpayer rights. The stakeholder recommended inclusion of a dominant-purpose test, commercial substance test, prior notice, opportunity to respond, written reasons, and clear appeal mechanisms.

Committee Observation

The Committee acknowledged KNCCI's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. Further, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

1095. Amend the proposal allowing Commissioner-issued assessments based on information obtained from returns, audits, inspections, electronic systems, third-party data, and other sources because taxpayers should be afforded prior notice, access to the information relied upon, and sufficient time to reconcile records before assessments are issued.

Committee Observation

The Committee acknowledged KNCCI's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to

prove the accuracy and reliability of the information where an assessment is disputed.

Clause 43

1096. Agree to the proposal extending the tax amnesty programme because the measure provides significant relief for businesses with historical tax liabilities and promotes voluntary compliance. Additionally, adopt simplified application procedures, taxpayer education, and dedicated MSME support desks.

Committee Observation

The Committee supported the KNCCI's proposal on extending the tax amnesty programme.

Clause 45

1097. Delete the proposal removing safeguards against the issuance of agency notices during pending appeals, because the amendment may permit enforcement of disputed taxes before the conclusion of valid appeals, thereby affecting taxpayer rights and business cash flow.

Committee Observation

The Committee considered the concerns raised by KNCCI and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 46

1098. Agree to the clause repealing Section 44A on certificate of origin requirements because simplification may reduce documentation burdens on importers. The stakeholder nevertheless recommended issuance of clear customs guidance to avoid clearance delays and uncertainty regarding replacement procedures.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI but noted that the proposed repeal of Section 44A of the Tax Procedures Act is intended to align import procedures with international standards and

facilitate trade. The Committee further observed that the blanket requirement for Certificates of Origin imposes unnecessary compliance burdens, delays clearance, increases the cost of doing business, and conflicts with established customs practices under the East African Community framework.

Clause 50

1099. Adopt the proposal addressing failure to comply with electronic tax system requirements because businesses rely heavily on eTIMS, KRA systems, internet connectivity, and third-party software. The stakeholder further recommended automatic waiver of penalties where verified system failures, downtime, or synchronisation errors occur.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and are in support of the proposed amendment.

Clause 51

1100. Amend the proposal limiting waiver of penalties and interest arising from electronic system errors to liabilities not exceeding Ksh10 million because the threshold may exclude larger businesses affected by genuine system failures. The stakeholder suggested extending relief to all verified electronic system errors regardless of value.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI but observed that proposals to increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

Clause 52

1101. Adopt the proposal to introduce pre-populated tax returns, as it may simplify compliance and reduce filing errors. However, the stakeholder recommended that taxpayers retain the right to review, amend, reject, or dispute pre-populated information before submission.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and resolved to support the proposed amendment.

Clauses 54 and 55

1102. Amend the proposal relating to Import Declaration Fee, Railway Development Levy, Export Levy, and imported telephones because granting relief only to imported

finished mobile phones may place local assemblers at a competitive disadvantage. The stakeholder recommended extending IDF and RDL relief to components, raw materials, spare parts, and production inputs imported for local assembly and manufacture.

Committee Observation

The Committee noted the concerns of KNCCI and resolved to delete the proposal in the Bill.

Clause 56

1103. Agree to the clause providing stamp duty treatment for transfers of beneficial interests in property to Real Estate Investment Trusts because the amendment may encourage REIT investment and support formal real estate investment structures. However, minimise unnecessary transaction costs.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and resolved to support the proposed amendment.

Clause 57

1104. Amend the proposal reducing the amount payable into the Road Annuity Fund from Ksh3.00 to Ksh1.50 for clarification on the policy rationale and assurance that road maintenance and trade facilitation will not be adversely affected because road infrastructure remains critical for logistics, manufacturing, agriculture, trade, and county commerce.

Committee Observation

The Committee acknowledged the concerns raised by KNCCI and noted as no new annuity projects are planned and existing obligations can be met under the revised inflows. The Committee further observed that the reallocated funds will enhance road maintenance financing and support the approved securitization framework.

New Provision

Review of PAYE Tax Bands and Rates

1105. Review the PAYE tax bands, as the Bill does not provide relief for lower-income earners despite rising living costs. The stakeholder noted that revising PAYE bands would increase disposable income, support consumer demand, and cushion workers against economic pressures.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of KNCCI.

3.3.47 BRITISH CHAMBER OF COMMERCE KENYA

Clause 23

1106. Amend the proposal expanding Capital Gains Tax to indirect offshore transfers by non-residents to introduce proportional attribution principles, valuation guidance, and exclusions for bona fide internal group reorganisations where there is no change in ultimate beneficial ownership to preserve Kenya's taxing rights while providing certainty for investors and businesses undertaking restructurings and capital raising activities. Although taxation of indirect transfers is internationally recognised, the amendment lacks objective nexus, ownership, and materiality thresholds to distinguish substantial transfers from ordinary commercial transactions.

Committee Observation

The Committee acknowledged the concerns raised by the British Chamber of Commerce Kenya but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for amendment and recommended that the clause be retained.

Clause 27

1107. Amend the clause introducing mandatory adjustment of previously claimed input VAT where taxable supplies subsequently become exempt because requiring immediate reversal of input VAT may create significant working capital pressures for manufacturers and assemblers holding inventory, raw materials, components, spare parts, and work-in-progress at the transition date. A progressive utilisation-based

adjustment mechanism would better align VAT adjustments with actual consumption of inventory while reducing cash-flow distortions and operational disruption.

Committee Observation

The Committee acknowledged the concerns raised by the British Chamber of Commerce Kenya but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

1108. Delete the proposal extending the waiting period for claiming VAT refunds on bad debts from two years to three years because the Finance Act, 2025, had only recently reduced the period from three years to two years. Reinstating the previous timeline undermines tax policy predictability and delays access to refunds, thereby increasing cash-flow pressures on businesses operating in sectors with long credit cycles or elevated default risks.

Committee Observation

The Committee acknowledged the concerns raised by the British Chamber of Commerce Kenya but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposal for deletion and recommended retention of the proposal.

Clause 31(a)(ix)

1109. Amend the proposal reclassifying imported and locally assembled mobile phones from zero-rated to VAT-exempt status by retaining zero-rating for locally assembled and manufactured mobile phones while applying VAT exemption only to imported finished devices. Alternatively, VAT exemption should extend to components, raw materials, spare parts, and production inputs directly used in local assembly. Since local

manufacturers incur VAT throughout the production chain, the proposed exemption would embed irrecoverable VAT costs into locally assembled devices, reduce competitiveness, and undermine investment in domestic manufacturing. The stakeholder also sought clarification regarding the intended commencement date of the amendment.

Committee Observation

The Committee acknowledged the concerns raised by the British Chamber of Commerce Kenya and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 31(b)(i)

1110. Amend the proposal removing VAT exemption on digital payment processing services by limiting the exclusion to standalone software, licensing, or technology services that are not directly linked to financial intermediation or payment processing activities. Alternatively, delete the proposal, as digital payment processing, merchant settlement, gateway services, and aggregation services constitute critical infrastructure that supports financial inclusion and the formal digital economy. Subjecting these services to VAT would increase transaction costs for businesses and consumers while creating inconsistencies between traditional and digital financial services.

Committee Observation

The Committee acknowledged the concerns raised by British Chamber of Commerce Kenya and recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 34

1111. Delete the proposal shifting the excise duty liability point for imported and locally manufactured mobile phones from importation or manufacture to activation because the amendment departs from established excise duty principles under which liability crystallises at identifiable points within the control of importers and manufacturers. Although activation-based verification may support anti-illicit trade measures, it creates uncertainty where tax liability becomes dependent on downstream telecom processes outside the control of taxpayers. If retained, detailed regulations should

clarify the meaning of activation, reporting obligations, transitional treatment of existing devices, and reconciliation procedures.

Committee Observation

The Committee acknowledged the concerns raised by the British Chamber of Commerce Kenya and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 35

1112. Amend the proposal to introduce payment of excise duty upon activation of mobile phones by providing detailed operational regulations governing implementation, including definitions of activation, adjustment mechanisms for non-standard transactions, reconciliation requirements, and reporting obligations. Considering that the framework introduces a fundamentally new excise administration model involving telecom operators, manufacturers, importers, distributors, and financing platforms, a phased implementation or pilot period should be adopted before full enforcement.

Committee Observation

The Committee acknowledged the concerns raised by the British Chamber of Commerce Kenya and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(i)

1113. Amend the proposal increasing excise duty on telephones from ten per cent to twenty-five per cent and extending the tax to locally manufactured and assembled devices by retaining the higher rate only on imported finished mobile phones while

excluding locally assembled and manufactured phones. The proposal removes a fiscal incentive that has supported domestic assembly and value addition, while the combined effect of excise duty, VAT changes, and activation-based taxation may significantly increase device prices and undermine smartphone affordability, digital inclusion, and local manufacturing investment.

Committee Observation

The Committee agreed with the concerns raised by the British Chamber of Commerce Kenya and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore resolved to delete the proposal.

Clause 44

1114. Delete the proposal repealing Section 39A(2) of the Tax Procedures Act because the current provision protects withholding agents from liability for principal tax where the recipient has already accounted for and paid the tax. Removing this safeguard may result in economic double collection, increase compliance disputes, and encourage excessively conservative withholding practices.

Committee Observation

The Committee considered the concerns raised by the British Chamber of Commerce Kenya and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the British Chamber of Commerce and recommended deletion of the proposal.

Clause 45

1115. Delete the proposal repealing Section 42(14)(e) of the Tax Procedures Act because the amendment would permit issuance and enforcement of agency notices despite the existence of a pending appeal. Allowing tax collection before the dispute resolution process is complete undermines taxpayers' rights to appeal and to fair administrative action while increasing cash-flow pressures and litigation costs.

Committee Observation

The Committee considered the concerns raised by British Chamber of Commerce Kenya and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings

would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended deletion of the proposal.

Clause 47

1116. Delete the proposal preventing taxpayers from offsetting overpaid taxes against VAT payable on imports because the amendment may create significant cash-flow constraints for import-intensive businesses and force taxpayers to pursue refunds that are often subject to lengthy verification and processing procedures. The proposal may also increase disputes and refund claims.

Committee Observation

The Committee considered the British Chamber of Commerce Kenya raised by stakeholders and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the British Chamber of Commerce and recommended deletion of the proposal.

Clause 49

1117. Delete the proposal repealing Section 77(2) of the Tax Procedures Act because excluding weekends and public holidays from the computation of objection and appeal timelines promotes procedural fairness and reduces the risk of taxpayers losing disputes on technical timelines rather than substantive merits. The provision was only recently introduced through the Tax Procedures (Amendment) Act, 2024 and contributes to certainty and consistency in tax administration.

Committee Observation

The Committee considered the concerns raised by the British Chamber of Commerce Kenya and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore resolved to delete the proposal.

Clause 55(a)(ii)(xxxiii) and Clause 55(b)(ii)(xix)

1118. Amend the proposal exempting imported telephones from Import Declaration Fee and Railway Development Levy by extending equivalent relief to components, raw materials, spare parts, and production inputs imported for direct use in local assembly and manufacture of mobile phones. Restricting relief to imported finished phones creates a structural cost imbalance that disadvantages local assembly operations and undermines Kenya's industrialisation objectives, employment creation, domestic value addition, and supply chain development.

Committee Observation

The committee noted the concerns of the British Chamber of Commerce and resolved that the clause be deleted.

NEW PROPOSALS

VAT Act - Reduced VAT Rate for Net Exporters

1119. Introduce a reduced VAT rate of eight per cent on inputs used by net exporters because exporters remain in perpetual VAT credit positions and continue to accumulate substantial refund balances. Reducing the VAT burden on inputs would free working capital currently tied up in refunds, support expansion, enhance competitiveness, and reduce Government refund obligations.

Committee Observation

The Committee noted the proposal by the British Chamber of Commerce Kenya, and undertook to consider it in future legislation.

Excise Duty Act, First Schedule - Imported Glass Bottles

1120. Amend the First Schedule to the Excise Duty Act by reducing excise duty on imported glass bottles from thirty-five per cent to twenty-five per cent or Ksh40 per kilogram, whichever is higher, or alternatively allow manufacturers to claim excise relief on imported glass bottles used as production inputs. Kenya's domestic glass manufacturing capacity remains insufficient to meet demand, while the current rate increases production costs, affects competitiveness, and may conflict with regional trade obligations. Lower rates would support manufacturing, exports, environmental sustainability, and investment.

Committee Observation

The Committee noted that the proposal would undermine the policy objective of the excise duty on imported glass bottles, which is to promote local value addition, encourage investment in domestic packaging manufacturing, and support regional sourcing within the EAC. Reducing the excise rate and introducing refund mechanisms would effectively neutralize the protective effect of the measure, create revenue losses, and

place locally produced glass packaging at a competitive disadvantage relative to imports. Further, glass bottles function primarily as packaging materials rather than industrial raw materials, and extending input relief through excise refunds would create a precedent for similar claims across a wide range of packaging inputs, complicating tax administration and eroding the excise tax base. As such the proposals are not supported.

Excise Duty Act - Ethanol Transit Loss Allowance

1121. Introduce a statutory allowance for ethanol transit and processing losses under the Excise Duty Act because ethanol is susceptible to evaporation during transportation and storage. Providing an allowance similar to those available for petroleum products would reduce production costs, improve competitiveness of legitimate manufacturers, and align Kenya's framework with international practice.

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation.

Extension of Withholding VAT Remittance Timeline

1122. Amend Section 42A(4B) of the Tax Procedures Act by extending the remittance deadline for withholding VAT from five working days after deduction to the fifth day of the following month because the current deadline creates administrative burdens and cash-flow challenges, particularly for large businesses processing significant transaction volumes and frequent invoice adjustments.

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation.

Sustainable Waste Management Act - Exemption from Extended Producer Responsibility (EPR) Levy for Members of Producer Responsibility Organisations

1123. Amend the Sustainable Waste Management Act to exempt producers who are members of recognised Producer Responsibility Organisations from payment of the Extended Producer Responsibility Levy because such entities already contribute towards waste management and circular economy initiatives through approved compliance schemes. Imposing the levy in addition to existing obligations may result in duplication of costs and undermine environmental sustainability efforts.

Committee Observation

The Committee noted the proposal by the British Chamber. This proposal cannot be supported because the Sustainable Waste Management Act falls

under the statutory mandate of the Ministry of Environment, Climate Change and Forestry, and NEMA, making the Finance Bill, 2026 the wrong legislative vehicle for altering these environmental regulatory codes.

3.3.48 TAXIQ AFRICA REGIONAL ADVISORY LTD

Clause 15

1124. Amend the clause repealing Section 23 of the Income Tax Act because, although a modern General Anti-Avoidance Rule is necessary to address aggressive tax avoidance schemes, the proposed provision grants broad powers without sufficient safeguards. The new framework should apply only where the dominant purpose of a transaction is to obtain a tax benefit through arrangements that are artificial, contrived, lack commercial substance, or misuse tax legislation. Prior notice, detailed reasons, an opportunity to respond, internal approval mechanisms, and clear regulations should also be provided to ensure certainty and protect legitimate commercial transactions.

Committee Observation

The Committee acknowledged the concerns raised but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for administrative consistency. Consequently, the proposed additional safeguards and amendments were not considered necessary.

Clause 18(b)

1125. Delete the proposal introducing a one-month filing deadline for nil returns because the Bill does not clearly define what constitutes a nil return. The accelerated timeline may create uncertainty, premature filings, amended returns, penalties, and disputes, particularly where taxpayers require time to reconcile records, losses, tax credits, and financial statements before filing returns.

Committee Observation

The Committee acknowledged Taxiq Africa's concerns and noted that nil returns require minimal effort while corporate returns require additional time consistent with current practice.

Clause 19(a)

1126. Delete the proposal reducing the annual income tax return filing period from six months to four months because the current six-month period aligns more closely with

audit processes, financial reporting obligations, tax reconciliations, and Companies Act reporting requirements. Shortening the deadline may increase filing errors, amended returns, penalties, and unnecessary disputes.

Committee Observation

The Committee acknowledged Taxiq Africa's concerns and noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 41

1127. Amend the clause introducing Section 18A of the Tax Procedures Act on tax avoidance schemes because the proposed provision should incorporate objective thresholds, commercial substance tests, prior notice requirements, taxpayer response rights, disclosure obligations, and internal review mechanisms. Without such safeguards, the provision may create uncertainty and discourage legitimate investment planning, restructuring, and financing arrangements.

Committee Observation

The Committee acknowledged the Taxiq Africa's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

1128. Amend the proposal introducing Section 29A of the Tax Procedures Act because the Commissioner's power to issue assessments based on information obtained from tax systems, third-party data, audits, inspections, and other sources should be accompanied by mandatory disclosure requirements. Taxpayers should receive details of the information relied upon, its source, assumptions made, computations applied, statutory provisions invoked, and reasons supporting the assessment before any evidential burden shifts to them.

Committee Observation

The Committee acknowledged the Taxiq Africa's concerns but supported the introduction of Section 29A to strengthen tax administration by

allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

1129. Delete the proposal repealing Section 39A(2) of the Tax Procedures Act because the provision protects withholding agents from being subjected to recovery of principal withholding tax where the recipient has already declared and paid the tax. Repealing the safeguard may expose taxpayers to double recovery of the same tax and increase compliance disputes.

Committee Observation

The Committee considered the Taxiq Africa's submission and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore recommended deletion of the proposal.

Clause 45

1130. Delete the proposal repealing Section 42(14)(e) of the Tax Procedures Act because the amendment would allow enforcement through agency notices while an objection, appeal, or court process remains pending. Such enforcement may undermine taxpayers' rights to appeal and fair administrative action by rendering dispute resolution processes commercially ineffective.

Committee Observation

The Committee considered the concerns raised by Taxiq Africa and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed to the deletion of the proposal.

Clause 47

1131. Delete the proposal removing the ability to offset overpaid taxes against VAT payable on imports because the amendment would restrict an important cash-flow relief mechanism available to taxpayers with verified overpayment positions. Businesses may be compelled to pursue lengthy refund processes while simultaneously meeting immediate import VAT obligations.

Committee Observation

The Committee considered the concerns raised by Taxiq Africa and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 49

1132. Delete the proposal repealing Section 77(2) of the Tax Procedures Act because excluding weekends and public holidays when computing objection and appeal timelines provides taxpayers with practical working days to prepare and lodge disputes. Reinstating calendar-day computation would disproportionately affect SMEs, individual taxpayers, and taxpayers whose deadlines fall during weekends or public holidays.

Committee Observation

The Committee considered the concerns raised by Taxiq Africa and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with Taxiq Africa and recommended deletion of the proposal.

Clause 50

1133. Amend the proposal introducing penalties for non-compliance with electronic tax systems because penalties should be proportionate, graduated, and based on culpability. Safe harbour provisions should apply where non-compliance arises from KRA system failures, onboarding delays, configuration errors, or circumstances beyond the taxpayer's reasonable control.

Committee Observation

The Committee acknowledged the concerns raised by Taxiq Africa but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 51

1134. Amend the proposal limiting waiver of penalties and interest arising from electronic tax system errors to liabilities not exceeding Ksh2 million because waiver eligibility should depend on the cause of the error rather than the monetary value involved. Taxpayers should not bear liabilities resulting from system malfunctions where they are not guilty of wilful default, fraud, or deliberate neglect.

Committee Observation

The Committee acknowledged the concerns raised by Taxiq Africa but observed that proposals to remove the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

NEW PROVISIONS

Tax Procedures Act, Section 30 - Safeguards for Advance Assessments

1135. Amend Section 30 of the Tax Procedures Act to require the Commissioner to disclose the information, assumptions, computations, statutory basis, and reasons supporting an advance assessment because taxpayers should not be required to challenge assessments before understanding the basis upon which they were made. This would align advance assessments with the safeguards proposed for data-based assessments.

Committee Observation

The Committee noted the proposal. The Committee further noted that the proposal would require further research and stakeholder consultation.

Tax Procedures Act, Section 50

1136. Amend Section 50 of the Tax Procedures Act to provide that notices of assessment constitute prima facie evidence rather than conclusive evidence of correctness because taxpayers should be entitled to challenge the legal basis, factual assumptions,

computations, and evidentiary foundation of an assessment. The amendment would strengthen fairness and transparency in tax administration.

Committee Observation

The Committee noted that the proposal to strip tax decisions of their presumption of correctness and shift the burden of proof to the Commissioner cannot be supported because it undermines the foundation of tax administration. The presumption of correctness is a standard global practice necessary to ensure stable revenue collection and prevent taxpayers from paralyzing enforcement simply by lodging a dispute. Furthermore, shifting the burden of proof contradicts Section 56(1) of the Tax Procedures Act, which dictates that the taxpayer must prove an assessment is incorrect since they are the sole custodians of their own financial and business records.

Tax Procedures Act, Section 56

1137. Amend Section 56 of the Tax Procedures Act to clarify that the taxpayer's burden is evidential in nature and arises only after the Commissioner has disclosed a lawful, reasoned, and evidentially supported basis for the tax decision. This would ensure that taxpayers respond to a disclosed case rather than being required to disprove undisclosed assumptions or allegations.

Committee Observation

The Committee noted that the proposal to convert the taxpayer's legal burden of proof into a mere evidential burden cannot be supported. Section 56(1) of the Tax Procedures Act establishes the global tax standard that the taxpayer bears the legal burden of proving an assessment is incorrect, as they are the primary custodians of their own financial and business records. Shifting this initial burden to the Commissioner would contradict established Kenyan jurisprudence from the High Court and the Tax Appeals Tribunal. As such the Committee does not support the proposal.

Tax Appeals Tribunal Act, Section 30

1138. Amend Section 30 of the Tax Appeals Tribunal Act to require the Commissioner to place before the Tribunal a lawful, reasoned, verifiable, and evidence-based assessment before the burden shifts to the taxpayer. The amendment would enhance fairness in dispute resolution while ensuring that assessments are supported by disclosed facts, computations, assumptions, and evidence.

Committee Observation

The Committee noted the proposal by the stakeholder. However, shifting the initial burden of proof to the Commissioner at the Tax Appeals

Tribunal stage compromises public revenue protection. Under Section 56(1) of the Tax Procedures Act, tax assessments carry a statutory presumption of correctness, and the legal burden rests entirely on the taxpayer, who is the primary custodian of their financial records. As such the Committee does not support the proposal.

3.3.49 THE BRITISH HIGH COMMISSIONER TO KENYA

NEW PROPOSALS

Income Tax Act, Section 20 (1)

1139. Amend Section 20(1) of the Income Tax Act by introducing Alternative Investment Funds (AIFs) as an additional category of collective investment schemes eligible for income tax exemption because the current provision only extends tax neutrality to a limited range of collective investment vehicles, creating a misalignment with the Capital Markets (Alternative Investment Funds) Regulations, 2023 which permit AIFs to operate through legal structures such as limited liability partnerships and investment companies. The amendment would remove uncertainty regarding the tax treatment of AIFs, encourage onshore fund domiciliation, attract domestic and foreign investment, deepen Kenya's capital markets, support SME financing, create employment opportunities, and broaden the tax base through increased economic activity. The proposal would also align Kenya's framework with international practice adopted in jurisdictions such as Zambia, South Africa, Ghana, and India, where alternative investment funds benefit from tax-neutral treatment regardless of their legal form.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Income Tax Act - Definition of Alternative Investment Fund

1140. Amend the Income Tax Act by introducing a definition of "Alternative Investment Fund" linked to the Capital Markets Act and regulations made thereunder because the absence of a statutory definition may create uncertainty regarding eligibility for income tax exemptions available to collective investment schemes. A cross-reference to the Capital Markets regulatory framework would ensure consistency between tax legislation and capital markets legislation while reducing interpretational disputes.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Operationalisation of the Income Tax (Registered Collective Investment Schemes) Rules, 2025

1141. Adopt the gazettement and implementation of the draft Income Tax (Registered Collective Investment Schemes) Rules, 2025 because the Rules are intended to operationalise the tax treatment of collective investment schemes and facilitate application of the exemption under Section 20 of the Income Tax Act.

1142. Finalisation of the Rules would complement the Alternative Investment Funds framework and enhance investor certainty. However, the Rules should be aligned with the proposed amendment to Section 20, as the current draft appears to apply only to entities already listed under Section 20(1), potentially excluding certain legal forms of Alternative Investment Funds.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Income Tax Act - Harmonisation of Tax Legislation with the Capital Markets (Alternative Investment Funds) Regulations, 2023

1143. Amend the Income Tax Act to harmonise tax treatment of Alternative Investment Funds with the Capital Markets (Alternative Investment Funds) Regulations, 2023 because the current legislative framework creates a potential conflict between tax law and capital markets regulation. The inconsistency may discourage registration of Alternative Investment Funds in Kenya and encourage investors to establish funds in offshore jurisdictions offering greater tax certainty and neutrality. Resolving the conflict would support the development of private equity, venture capital, private credit, and other private capital markets within Kenya.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

3.3.50 ASSOCIATED BATTERY MANUFACTURERS EAST AFRICA LTD

Clause 32(f)

1144. Delete the proposal reclassifying solar batteries and lithium-ion batteries from zero-rated to VAT-exempt status because the amendment would prevent

manufacturers from recovering input VAT incurred during production, resulting in higher production costs and increased prices for consumers. Retaining Paragraph 32 of Part A of the Second Schedule to the VAT Act in its current form would preserve affordability of solar energy solutions, support growth of the renewable energy sector, maintain competitiveness, protect jobs, and advance the Government's clean energy agenda.

Committee Observation

The Committee acknowledged the concerns raised by the Associated Battery Manufacturer's and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 36(a)(xxxv) Coal

1145. Delete the proposal introducing excise duty on coal at the rate of five per cent of the excisable value because the additional tax burden would increase production costs across the manufacturing value chain, reduce industrial competitiveness, and place pressure on businesses operating on thin margins. Increased coal costs may also lead to higher consumer prices, reduced output, and potential job losses. Further, the proposal may encourage substitution to more environmentally harmful alternatives such as wood fuel, thereby accelerating deforestation and undermining environmental sustainability objectives.

Committee Observation

The Committee acknowledged the concerns raised by the Associated Battery Manufacturer's but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

3.3.51 BUNGE LA MWANANCHI

Clause 19(a)

1146. Delete the proposal reducing the income tax return filing period from six months to four months because compressing the compliance period would impose additional

administrative and financial burdens on individuals and SMEs that rely on accountants and tax agents to reconcile financial records, payroll information, and tax obligations. Retaining the current filing deadline would support voluntary compliance while avoiding unnecessary compliance costs.

Committee Observation

The Committee acknowledged the concerns by Bunge La Mwananchi and noted that the proposal to introduce revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 20(b)

1147. Amend the clause granting Capital Gains Tax exemption on transfers undertaken during internal reorganisations to introduce safeguards to ensure that relief is limited to genuine business reorganisations while protecting Government revenue. Without appropriate controls, the provision may facilitate tax avoidance through artificial structures and transactions designed to circumvent Capital Gains Tax.

Committee Observation

The Committee acknowledged the concerns raised by Bunge La Mwananchi and observed that while the proposed exemption supports capital market development through REITs, it lacks adequate safeguards and could be exposed to abuse through artificial restructurings, quick cash-outs, or related-party transactions. The Committee further noted that aligning the provision with international best practice requires clear anti-abuse conditions, including that transfers be undertaken for bona fide commercial purposes, consideration be in REIT units, transferred property be retained in the REIT for a minimum period, and that transferors do not retain controlling interests post-transfer. In view of these concerns, the Committee recommended amendment of the clause to incorporate the necessary safeguards while retaining the policy intent of the exemption as contained in the Bill.

Clause 31(b)(i)

1148. Amend the proposal removing VAT exemptions on mobile money transfers and payment processing services by expressly exempting person-to-person mobile money transfers from VAT and restricting taxation to clearly defined cash handling services. Taxing basic money transfer services would increase the cost of digital transactions, undermine financial inclusion, discourage adoption of cashless payment systems, and

disproportionately affect low-income households that rely on mobile money for daily transactions.

Committee Observation

The Committee acknowledged the concerns raised by Bunge La Mwananchi but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32(e), (f) and (h)

1149. Adopt the proposal exempting electric bicycles, solar batteries, lithium-ion batteries, and raw materials used in the manufacture of animal feeds from VAT because the measure promotes renewable energy adoption, lowers production costs, supports local manufacturing, and enhances the affordability of essential products. However, the approval process for qualifying manufacturing raw materials should be administrative, transparent, and time-bound to prevent delays in clearance and implementation.

Committee Observation

The Committee noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework. The Committee also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence.

Clause 36(a)(i)

1150. Delete the proposal imposing excise duty of twenty-five per cent on mobile phones because mobile devices are essential tools for communication, commerce, financial inclusion, education, and access to Government services. The proposed tax would increase handset prices, widen the digital divide, and disproportionately affect students, small traders, *boda boda* operators, and low-income households. Alternatively, consideration may be given to a lower rate applicable only to high-value devices.

Committee Observation

The Committee agreed with the concerns raised by Bunge La Mwananchi and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal

3.3.52 ANGLICAN CHURCH OF KENYA (ACK)

Clause 31(a)(ix) 169

1151. Delete the proposal or consider gradual implementation of any *mitumba*-related taxes whilst strengthening local textile manufacturing through industrial incentives, energy reforms and investment support. This is because heavy taxation on *mitumba* before local textile industries become competitive would increase clothing prices, reduce income for small traders and worsen economic hardship among vulnerable communities.

Committee Observation

The Committee acknowledged the concern raised by ACK but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax.

Clauses 31(b)(i)

1152. Reconsider tax proposals affecting financial transactions, digital services and electronic payments because they are likely to trigger price increases across the entire economy and to protect citizens from rising cost of living and inflation. Furthermore, amend to provide for phased implementation of major tax measures to minimize inflationary shocks and economic disruption.

Committee Observation

The Committee acknowledged the concern raised by ACK but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling

and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(i)

1153. Delete the proposal or amend to reduce the proposed excise duty rate because mobile phones are critical tools for access to essential services including communication, education, healthcare access, government services and youth employment opportunities, among others. Instead, consider encouraging local assembly and manufacturing of digital devices through incentives rather than punitive taxation to promote nationwide digital connectivity in line with Kenya's broader economic transformation agenda.

Committee Observation

The Committee agreed with the concerns raised by ACK and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clauses 18 and 19

1154. Delete the proposals or amend to maintain the existing filing deadlines for small business while applying stricter reporting timelines to large corporations to protect SMEs and informal traders.

Committee Observation

The Committee acknowledged ACK's concerns and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

OVERALL PROPOSALS

1155. Prioritize key productive sectors such as agriculture, manufacturing, transport and SMEs because these sectors are critical for employment creation, food security and long-term economic stability.

Committee Observation

The Committee observed that some of the recommendations by the Committee will prioritize sectors such as agriculture, manufacturing and

transport. This for instance include the Committee's recommendation to delete of the proposed shift of e-mobility from zero-rate to exempt.

1156. Amend taxation laws to reduce tax on essential goods and services such as fuel, food, transport and digital communication as a targeted mitigation measure to cushion vulnerable households.

Committee Observation

The Committee observed that the recommendation by the Committee will reduce taxation on some of the stakeholder's proposal.

1157. Consider conducting comprehensive economic impact assessments and broad stakeholder consultations before implementing taxes that directly affect household expenses and productive sectors of the economy. Similarly, consider improving transparency and communication regarding taxation plans so that citizens are better informed and to ensure that future tax reforms reflect prevailing economic realities affecting households across the country.

Committee Observation

The Committee observed that the National Assembly dutifully conducts public participation on taxation proposals before enactment in accordance with Article 10 of the Constitution which recognizes public participation as a national value and principle of governance. The Committee also noted the stakeholder's proposal on the other aspects.

1158. Prioritize stronger governance, accountability, and enforcement measures, including full implementation of e-procurement systems and faster prosecution of procurement fraud cases to fight corruption, prevent revenue leakages, and tax evasion before increasing taxes.

Committee Observation

The Committee observed that the National Assembly has put in place strong measures to prevent corruption and revenue leakages through the enactment of robust legislation providing for e-procurement, strong anti-corruption offences and harsh sanctions against corruption and conflict of interest. These include, among others, Public Procurement and Asset Disposal Act, the Anti-Corruption and Economic Crimes Act and Conflict of Interest Act. The Committee further noted, however, that there is need for stricter enforcement of these laws.

NEW PROPOSALS

Income Tax Act

1159. Amend the Income Tax Act to exempt low and middle-income earners from PAYE to improve disposable incomes and stimulate economic activity.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of ACK.

3.3.53 CLEAR TAX CONSULTANCY/ CPA WACHIRA JOSEPH

NEW PROPOSAL

Income Tax Act, Third Schedule

1160. Delete Paragraph 5(jb) of Head B of the Third Schedule to the Income Tax Act because it will remove reliance on a non-existent Section 11(3)(c), align the Third Schedule with the proposal in Clause 8 of the Bill.

Committee Observation

The Committee agreed with the proposal from the CPA Wachira.

3.3.54 SULTAN TAX EXPERTS

Clause 22 (a)

1161. Delete the proposal since the preferential rate gives concrete fiscal effect to Article 43(1)(b) of the Constitution (right to accessible and adequate housing) and to the Affordable Housing Act, 2024. Retaining it keeps the tax architecture consistent with the country's stated housing commitments, Kenya Vision 2030 and the BETA agenda.

Committee Observation

The Committee acknowledged the concerns raised by Sultan Tax Experts but observed that the proposed amendment repeals the preferential corporation tax rate of 15 percent for qualifying housing developers to address revenue leakage and ensure that tax incentives are better aligned with the intended housing policy objectives.

Clause 31 (a) (vii)

1162. Delete the proposal seeking to charge 16% VAT on goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme.

Committee Observation

The Committee noted the concern raised by Sultan Tax Experts and noted that the exemptions were made to support the government's projects

under the BETA. Therefore, the Committee recommended deletion of the proposal.

NEW PROPOSAL
VAT Act, Section 17 (10)

1163. Amend by inserting a new subsection to read as follows:

If the fraction of the formula in subsection (6) for a tax period–

(a) is more than 0.90, the registered person shall be allowed an input tax credit for all of the input tax comprising component A of the formula; or

(b) is less than 0.10, the registered person shall not be allowed any input tax credit for the input tax comprising component A of the formula.

1164. This 90:10 threshold restricts the benefit to genuine affordable housing, Official Aid Funded and National Infrastructure Projects. This brings about undue difficult from suppliers of construction items like cement, steel to supply the aforementioned projects as they have to bear and pass on the input VAT cost in their prices.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

3.3.55 THE KENYA PROPERTY DEVELOPERS' ASSOCIATION (KPDA)

Clause 4

1165. Delete the proposal introducing a standalone final tax on non-resident rental income because applying a 30 per cent final tax on gross rental income without allowing deduction of operational expenses would make Kenyan property investments uncompetitive and significantly increase the effective tax burden on non-resident investors. Further, operational costs such as maintenance, management, and financing typically account for between 40 and 60 per cent of gross rental income, and the proposal may therefore trigger capital flight and reduce foreign investment in commercial, hospitality, retail, and residential developments. Additionally, the stakeholder proposed alignment of the rate with the 7.5 per cent applicable to residents.

Committee Observation

The Committee acknowledged the concerns raised by KPDA but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double

taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 16

1166. Delete the proposal requiring companies to distribute at least 60 per cent of after-tax profits as deemed dividends because real estate development is capital-intensive and developers routinely retain earnings for reinvestment, debt servicing, working capital, maintenance reserves, and compliance obligations. Further this proposal would increase compliance burdens by requiring annual justification and documentation for retained earnings while exposing companies to additional withholding tax obligations on undistributed income.

Committee Observation

The Committee acknowledged the concerns raised by KPDA and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 20(b)

1167. Amend the proposal exempting capital gains arising from transfer of property to REITs by bringing forward the effective date from 1 January 2027 to 1 July 2026 in order to align the exemption with the proposed stamp duty exemption. The stakeholder further recommended extension of the exemption to in-specie transfers, exchange-for-units arrangements, and transfers of partial interests so as to avoid interpretational uncertainty on common REIT transaction structures.

Committee Observation

The Committee acknowledged the concerns raised by KPDA but observed that while the proposed exemption supports capital market development through REITs, it lacks adequate safeguards and could be exposed to abuse through artificial restructurings, quick cash-outs, or related-party transactions. The Committee further noted that aligning the provision with international best practice requires clear anti-abuse conditions, including that transfers be undertaken for bona fide commercial purposes, consideration be in REIT units, transferred property be retained in the REIT for a minimum period, and that transferors do not retain controlling interests post-transfer. In view of these concerns, the Committee

recommended amendment of the clause to incorporate the necessary safeguards while retaining the policy intent of the exemption as contained in the Bill. Further, the Committee did not agree with the proposal to bring forward the effective date.

Clause 22(a)

1168. Delete the proposal removing the fifteen per cent Corporate Income Tax rebate available to companies constructing at least one hundred residential units annually because the incentive was introduced to attract private sector investment into large-scale housing developments and support realization of the constitutional right to housing under Article 43(1)(b) of the Constitution. The stakeholder noted that withdrawal of the rebate would undermine the Government's Bottom-Up Economic Transformation Agenda housing targets, discourage long-term investment decisions already undertaken by developers, and negatively affect economic sectors linked to construction including cement, steel, transport, logistics, and professional services. The stakeholder further proposed reducing the qualifying threshold from one hundred to fifty units and extending eligibility to Limited Liability Partnership (LLPs)

Committee Observation

The Committee acknowledged the concerns raised by the KPDA but observed that the proposed amendment repeals the preferential corporation tax rate of 15 percent for qualifying housing developers to address revenue leakage and ensure that tax incentives are better aligned with the intended housing policy objectives.

Clause 23(b)

1169. Amend the proposal imposing Capital Gains Tax on indirect transfers by non-residents because the phrase *"derives value from Kenya"* is excessively broad and lacks guidance on computation of value attributable to Kenyan assets. The stakeholder further noted that the proposal may inadvertently capture multinational corporate groups with minimal Kenyan assets, expose investors to double taxation, and create uncertainty for mergers, acquisitions, and intra-group restructurings. The stakeholder further proposed limitation of the provision to instances where more than 50 percent of the share value is attributable to immovable property situated in Kenya, together with the introduction of grandfathering provisions for investments acquired before the commencement of the law.

Committee Observation

The Committee acknowledged the concerns raised by KPDA but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value

extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for amendment and recommended that the clause be retained.

Clause 31(a)(vii)

1170. Delete provision to retain the current VAT exemption applicable to goods imported or purchased locally for direct and exclusive use in construction of houses because the exemption reduces construction costs by up to 16 per cent and supports affordability of housing units. The stakeholder further submitted that the exemption stimulates job creation, supports implementation of the Affordable Housing Programme, and aligns Kenya with international best practice on tax incentives for affordable housing construction. Additionally, the stakeholder recommended streamlining administration of the exemption through transfer of approval functions to the Ministry of Housing and establishment of a centralized online application portal.

Committee Observation

The Committee noted the concern raised by KPDA and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clauses 36(a) (xiii) to (xxxiii)

1171. Retain all East African Community Rules of Origin exemptions applicable to construction materials and exempt coal used in domestic cement manufacturing from excise duty because removal of EAC-origin exemptions may constitute a non-tariff barrier contrary to the East African Community legal framework and significantly increase costs of construction materials such as tiles, glass, sanitary ware, and furniture.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Clause 36(a) (xxxv) (Coal)

1172. Fully exempt coal used in domestic cement manufacturing. If revenue collection is unavoidable, phase changes progressively over a minimum of three years. This is a significant escalation from the prior rate. Under the Finance Act 2025, coal imports were levied an excise duty of 2.5 per cent of their customs value and therefore this provision doubles the rate and creates uncertainty in tax policies.

Committee Observation

The Committee acknowledged the concerns raised by KPDA but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

Clauses 41 and 42

1173. Amend the provision to introduce a non-exhaustive safe-harbour list and limitation of the provisions to prospective application where the Commissioner can demonstrate that the dominant or sole purpose of the transaction was tax avoidance. The current language is sufficiently broad to disrupt legitimate real estate and infrastructure investment structures including joint ventures, land-banking entities, development SPVs, and development agreements. The Kenya Revenue Authority (KRA) should publish clear administrative guidance including a safe-harbour list before these provisions come into force.

Committee Observation

The Committee acknowledged KPDA's concerns and supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. Further, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 56

1174. Amend the proposal exempting instruments transferring beneficial interests in property to REITs from stamp duty by inserting a definitional cross-reference to '*authorized real estate investment trust*' under the Capital Markets Act and its regulations. The absence of a clear definitional cross-reference may create interpretational uncertainty while exclusion of financing documents may erode the intended relief.

Committee Observation

The Committee acknowledged the concerns raised by KPDA but observed that exempting transfers of property to Real Estate Investment Trusts

from stamp duty would reduce transaction costs but have revenue implications. While noting the role of REITs in capital formation and housing development, the Committee did not recommend further amending the proposal.

Clause 57

1175. Delete and restore the Road Annuity Fund allocation from Ksh1.50 per litre to Ksh3.00 per litre because road infrastructure development directly supports land value appreciation, satellite town development, and formalization of urban housing markets. Reducing the allocation would stall ongoing infrastructure projects, suppress land values in peri-urban areas, and undermine Kenya's infrastructure financing framework.

Committee Observation

The Committee acknowledged the concerns raised by KPDA but noted that the proposal reduces the allocation to the Annuity Fund from KSh 3 to KSh 1.5 per litre, as no new annuity projects are planned and existing obligations can be met under the revised inflows. The Committee further observed that the reallocated funds will enhance road maintenance financing and support the approved securitization framework.

3.3.56 NAIROBI INTERNATIONAL FINANCIAL CENTRE AUTHORITY (NIFCA)

NEW PROPOSALS

Definition of Start-Up under the Nairobi International Financial Centre Regulations

1176. Insert in the Nairobi International Financial Centre Regulations—

"start-up" means a company—

a) incorporated in Kenya;

b) certified by the Authority as being in its early stage of operations and as carrying on, or intending to carry on, an innovative, technology-enabled, novel or scalable financial or ancillary service, product or business model;

c) which, at the date of application for certification as a start-up, has been incorporated for a period not exceeding two years;

d) which has been in existence for a period not exceeding seven years from the date of incorporation; and

e) which is not formed through a transaction involving the recapitalisation, acquisition, amalgamation, separation or similar restructuring of an existing business, unless the Authority is satisfied that the company constitutes a genuinely new business and has not been established primarily for the purpose of accessing start-up benefits:

Provided that—

i. *after the expiry of three years from the commencement of this regulation, paragraph (c) shall apply as if the words "two years" were substituted with the words "one year"; and*

ii. *a company shall cease to qualify as a start-up upon the expiry of seven years from the date of its incorporation."*

1177. The stakeholder submitted that the current framework relies on broad administrative interpretation which creates uncertainty in certification and eligibility for incentives. A statutory definition would improve legal certainty, enhance investor confidence and support consistent regulatory application, provided that the definition remains sufficiently flexible to accommodate emerging innovation-driven enterprises and evolving technology sectors.

Committee Observation

The Committee noted the proposal by NIFCA. However, since the stakeholder refers to amendment to regulations, this fell outside the scope of the Bill.

Income tax Act, Third Schedule - Clarification of Eligibility Criteria for the NIFC Preferential Corporation Tax Regime

1178. Amend paragraph 2(na) of the Third Schedule to the Income Tax Act by replacing the word *"and"* with the word *"or"* between subparagraphs (ii) and (iii) because the current wording may be interpreted as requiring an NIFC-certified company to qualify simultaneously as both a holding company and a regional headquarters in order to access the preferential corporation tax rate. The amendment would clarify legislative intent and ensure that the two categories operate independently as alternative qualifying criteria.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Income tax Act, Third Schedule - Reduction of the Investment Threshold for NIFC Preferential Corporation Tax Incentives

1179. Amend paragraph 2(na) of the Third Schedule to the Income Tax Act by reducing the minimum investment threshold from Ksh 3 billion to Ksh1 billion because the current threshold is not aligned with the asset-light nature of financial services businesses and may exclude otherwise eligible firms from benefiting from the NIFC preferential corporation tax regime.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Reduction of Corporation Tax Rates for NIFC-Certified Start-Ups

1180. Amend paragraph 2(nb) of the Third Schedule to the Income Tax Act by reducing the corporation tax rate applicable to NIFC-certified start-ups from fifteen per cent to five per cent for the first three years and from twenty per cent to fifteen per cent for the succeeding four years because start-ups are generally capital-intensive, cash-constrained and unlikely to generate significant taxable profits during their formative years.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Interest Deduction Relief for NIFC-Certified Start-Ups

1181. Amend section 16(2)(j)(iii) by inserting a new subparagraph immediately after subparagraph (I)—

"(J) start-ups certified by the Nairobi International Financial Centre Authority, for a period not exceeding seven years from the date of incorporation, or such shorter period as they qualify as start-ups under the Nairobi International Financial Centre Regulations: Provided that this exemption shall not apply to interest paid or payable, directly or indirectly, to a related person of the start-up."

1182. The stakeholder submitted that early-stage innovation-driven firms are typically capital-intensive and rely heavily on debt financing during formative years, and the current thirty per cent EBITDA limitation may restrict access to critical growth capital and discourage investment into Kenya's innovation ecosystem.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Review of Capital Gains Tax Incentives for NIFC-Certified Investments

1183. Replace the proviso to paragraph 14 of the Nairobi International Financial Centre Regulations with—

"Provided that where the Nairobi International Financial Centre Authority certifies that a firm has invested at least one billion shillings in at least one entity incorporated or registered in Kenya within a period of two years; and (b) the transfer of the investment is made after five years from the date of the investment, the applicable

rate shall be five per cent. Provided further that where the transfer referred to in paragraph (b) is effected through a listing on the Nairobi Securities Exchange of more than forty per cent of the voting rights in the relevant entity, the applicable rate shall be zero per cent."

1184. The current threshold is restrictive and discourages commercially meaningful transactions and investments through the Nairobi Securities Exchange. Lowering the threshold would enhance capital market participation, improve liquidity and strengthen Kenya's competitiveness as a regional financial and investment hub.

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

Stamp Duty Act - Exemption on Share Transfers and Internal Restructuring of NIFC Holding Companies

1185. Amend the Stamp Duty Act to provide that—

"No stamp duty shall be chargeable on any instrument effecting—

a) the transfer of shares by, to, or within a holding company certified by the Nairobi International Financial Centre Authority; or

b) an internal restructuring within a group involving a holding company certified by the Nairobi International Financial Centre Authority, provided that the transaction is undertaken for bonafide business purposes and in accordance with such conditions as may be prescribed."

1186. The stakeholder submitted that the absence of such an exemption increases restructuring costs and undermines Kenya's competitiveness as a preferred regional holding company jurisdiction.

Committee Observation

The Committee noted the proposal by the NIFC. However, this would be discriminatory as other non-holding companies and individuals pay stamp duty on the same basis. This will therefore distort the tax system and is not in line with the general principles of taxation. Further the stamp duty Act already exempts stamp duty on the transfer of property as a result of an internal restructuring, adding another provision to provide for the same specifically for holding companies will therefore be superflous. As such the proposal was not supported.

Definition of Venture Capital Fund under the Nairobi International Financial Centre Framework

1187. Insert in the interpretation section of the Nairobi International Financial Centre (General) Regulations—

"venture capital fund" means a fund, company, partnership or other investment vehicle established in Kenya for the purpose of making equity or quasi-equity investments in new, early-stage or expanding enterprises, and which is approved, registered or licensed by the Capital Markets Authority in accordance with the applicable capital markets legal framework. For the avoidance of doubt, this definition shall apply solely for the purposes of certification, regulation and incentives under the Nairobi International Financial Centre framework"

1188. The stakeholder noted that the absence of a standalone legal definition creates regulatory uncertainty for fund managers and investors seeking to domicile venture capital structures in Kenya.

Committee Observation

The Committee noted NIFCA's proposal. However, the proposal is outside the scope of the Finance Bill which is to amend the general tax laws and not regulations since Rules and Regulations Follow a different administrative process before amendment by the Cabinet Secretary.

Preferential Corporation Tax Regime for NIFC-Certified Venture Capital Funds

1189. The stakeholder noted that Kenya currently lacks a competitive tax structure for venture capital fund domiciliation, thereby limiting its attractiveness relative to other international financial centres hence the below new proposal.

Insert a new paragraph in Head B of the Third Schedule to the Income Tax Act—

"in respect of a venture capital fund that—

i. is incorporated, established or registered in Kenya;

ii. is approved, registered or licensed by the Capital Markets Authority, as applicable;

iii. is certified by the Nairobi International Financial Centre Authority;

iv. commences operations in Kenya on or after the coming into force of this paragraph;

v. has a minimum fund size of twenty-five million United States dollars; and

vi. allocates at least fifty per cent of its committed capital to Nairobi International Financial Centre/Government of Kenya priority sectors, the rate of corporation tax shall be five per cent for the first ten years from the year of commencement of its operations and ten per cent for the subsequent ten years of its operations."

Committee Observation

The Committee noted the proposal by the stakeholder and further noted that the proposal would require further research and stakeholder consultation.

3.3.57 FEDERATION OF KENYA PHARMACEUTICAL MANUFACTURERS(FKPM)

Clause 2(b)

1190. Delete this clause expanding the definition of "management or professional fee" to include interchange fees and merchant service fees because such fees constitute transaction costs charged by financial service providers rather than payments for management or professional services. Subjecting the fees to withholding tax would increase operational costs for businesses and impose punitive taxation on already existing transaction charges.

Committee Observation

The Committee noted the concerns raised by Federation of Kenya Pharmaceutical Manufacturers (FKPM) but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 21

1191. Amend the proposal by inserting:

In the table after item (b) (xii), add a new entry (xiii) Machinery used for pharmaceutical manufacturing with a provision for 100% in the first year of use.

1192. The Federation submitted that upfront deduction of capital expenditure would improve cash flow management for pharmaceutical manufacturers, stimulate investment in modern manufacturing equipment, and support the growth of the local pharmaceutical industry.

Committee Observation

The Committee acknowledged the concerns raised by FKPM but observed that the proposal provides necessary clarity on the investment allowance for industrial buildings by specifying that the 10 percent allowance is claimable annually in equal instalments, thereby removing ambiguity, ensuring consistent application of the law, and enhancing predictability for taxpayers and administrators. The Committee therefore noted that the

clause is a clean-up amendment intended to correct and clarify the provision, and recommended it for retention as contained in the proposal. Clause 31(a)(ix) 161.

1193. Delete the proposal moving pharmaceutical inputs and raw materials from zero-rated to exempt status because the transition to exempt supplies would increase the cost of pharmaceutical inputs, particularly for local third-party suppliers such as packaging manufacturers, thereby increasing overall production costs within the pharmaceutical sector.

Committee Observation

The Committee acknowledged the concerns raised by FKPM and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceuticals would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 32(a)

1194. Delete the proposal. Moving pharmaceutical inputs and raw materials from zero-rated to exempt status would deny local manufacturers the ability to claim input taxes, thereby increasing the cost of production for pharmaceutical products by approximately seven per cent. The stakeholder further noted that the proposal would make imported pharmaceutical products more competitive than locally manufactured products, contrary to the Government's objective of promoting local manufacturing and industrial growth.

Committee Observation

The Committee acknowledged the concerns raised by FKPM and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceuticals would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 36(a)(xiii)

1195. Delete the clause because the removal of the exemption applicable to imported glass bottles for pharmaceutical packaging would increase the cost of pharmaceutical packaging materials and consequently increase the cost of medicines packaged in glass bottles. Further, there is currently no manufacturer within the East African Community region producing pharmaceutical glass bottles.

Committee Observation

The Committee noted the FKPM's proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 36(a)(xiv) to (xxxiii)

1196. Delete provision to reinstate the exclusion for products originating from East African Community partner states that meet the East African Community Rules of Origin. Removal of the exclusion would introduce non-tariff barriers contrary to the principles of regional integration and existing East African Community trade arrangements. The stakeholder noted that the proposal would adversely affect regional trade and contravene provisions governing excise duty exemptions within partner states.

Committee Observation

The Committee noted FKPM's proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

New Provisions

1197. Move various pharmaceutical products, medicaments, medical devices, diagnostic kits, hospital equipment, protective equipment, sanitary products, and related medical supplies from Value Added Tax Act, CAP 476, First Schedule – Exempt Supplies Part 1 – Goods to the Second Schedule, Part A – Zero Rated Supplies because classification of such products as exempt supplies prevents manufacturers from claiming input VAT, thereby increasing production costs and ultimately increasing the price of medicines and healthcare products. Adoption of the proposal would stimulate growth of local pharmaceutical manufacturing, lower healthcare costs, reduce dependence on imported medicines, support job creation, and align with the Government's Bottom-Up Economic Transformation Agenda and healthcare affordability objectives.

Committee Observation

The Committee acknowledged the concern raised by FKPM with regard to the cost implications of zero rating versus exempting products. The Committee acknowledges affordability concerns but notes that zero-rating contradicts the Medium-Term Revenue Strategy. Standard rating ensures neutrality, allowing manufacturers to deduct input VAT while maintaining fiscal discipline.

3.3.58 PHARMACEUTICAL SOCIETY OF KENYA

Clause 31

Paragraph 161

1198. Delete paragraph 161 and retain the zero rating of Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health. This is because it will lead to higher production costs of medicines, leading to higher medicine prices, thus undermining affordability and access to healthcare.

Committee Observation

The Committee acknowledged the concerns raised by the Pharmaceutical Society of Kenya and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 32

1199. Amend the Second Schedule (Zero-Rated Supplies) to include:

i. Essential medicines as defined under the Kenya Essential Medicines List (KEML), and health products and technologies for diagnostic and treatment purposes

ii. Zero-rate pharmaceutical raw materials and inputs used in the manufacture of medicines, including Active Pharmaceutical Ingredients (APIs), pharmaceutical excipients, bulk pharmaceutical intermediates, Pharmaceutical-grade alcohol used in manufacturing, pharmaceutical packaging materials used in medicine production, zero-rate pharmaceutical manufacturing equipment, including pharmaceutical and HPT manufacturing equipment, sterile injectable manufacturing systems, pharmaceutical filling

and packaging lines, quality control laboratory equipment used in pharmaceutical manufacturing, clean room systems and sterile manufacturing infrastructure used in pharmaceutical production.

1200. Bottom-up Economic Transformation Agenda (BETA) prioritizes local manufacturing and health security. Reducing tax barriers for pharmaceutical manufacturing supports this objective. It will lead to improved investment attractiveness and a reduction in counterfeit medicines.

Committee Observations

The Committee acknowledged the concern raised by the Pharmaceutical Society of Kenya with regard to the cost implications of zero rating versus exempting products. The Committee noted the Society's submission but would require further data from the National Treasury and sector players to fully appreciate the cost of implementing the proposal, its impact in the pharmaceuticals sector, and the effect on revenue mobilization.

Second Schedule to the Income Tax Act, Cap 470

1201. Amend the Second Schedule to the Income Tax Act Paragraph 1 after item (b) (xii), to add a new entry

"*(xiii), Machinery used for pharmaceutical manufacturing, with a provision for 100% in the first year of use.*"

1202. The deduction will help with cash flow management for the business, thus stimulating new investments in modern manufacturing equipment required for the growth of the local pharmaceutical industry.

Committee Observation

The Committee acknowledged the concern raised by the Pharmaceutical Society of Kenya and noted that the proposal introduces a highly accelerated capital allowance that significantly erodes the tax base in the year of acquisition and creates substantial timing mismatches in revenue collection. The current capital allowance framework already provides structured relief over time, balancing investment incentives with fiscal sustainability, whereas a 100% first-year deduction effectively converts long-term capital recovery into an immediate revenue loss without adequate safeguards. Targeted support for pharmaceutical manufacturing is better achieved through existing investment deduction provisions rather than introducing sector-specific full expensing that risks opening the door to similar demands across other industries and undermining tax neutrality.

Clause 36 (a)(xv)

1203. Delete the amendment because it conflicts with preferential customs treatment under the EAC Customs Union framework and the Rules of Origin regime, and may increase production costs.

Committee Observation

The Committee noted the proposal by Pharmaceutical Society of Kenya but recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Excise Duty Act, 2015

First Schedule

1204. Amend the first schedule to the Excise Duty Act in the description:

'Imported cartons, boxes, and cases of corrugated paper or paper board and imported folding cartons boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets tariff heading 4819.10.00, 4819.20.10 and 4819.20.90' by adding the following provision:-

"Provided that this paragraph shall exclude items used for packaging of pharmaceutical products"

1205. The Society submitted that the current treatment creates an uneven playing field where local manufacturers are disadvantaged relative to importers of finished pharmaceutical products, while the Excise duty on packaging inputs increases overall production costs.

Committee Observation

The Committee noted the proposal by the Pharmaceutical Society of Kenya but observed that the proposal has not been explored to determine its impact in the sector and revenue collection.

Clause 43

1206. Amend the clause to read as follows:

"(c)(ii) in paragraph (b), by deleting the expression "30th June, 2025" appearing immediately after the words "later than the" and substituting therefor the expression "30th June, 2027"

(d)(ii) by deleting the expression "30th June, 2025" appearing immediately after the words "unpaid on the" and substituting therefor the expression "30th June, 2027"

1207. The 6-month window provided for payment of the principal taxes is a short time and may lock out some taxpayers from taking advantage of the tax amnesty. If the proposal is adopted, it will help the government unlock much-needed revenue while ensuring that taxpayers clean up their records and streamline their tax compliance.

Committee Observation
The committee noted the submission by the Society but noted that the waivers and timelines provided in the Bill are sufficient.

New Proposal - Tax Procedures Act (TPA)
Section 23A

1208. Amend Section 23A subparagraph 4 to read as follows:

"The electronic tax invoice referred to in subsection (3) may exclude payments of emoluments, payments for imports, payments of interest, transactions for accounting for investment allowances, airline passenger ticketing, payments subject to withholding tax that is a final tax and patient-level pharmaceutical care transactions"

1209. The proposal will protect patient confidentiality, is compliant with the Data Protection Act of 2019, aligns with medical confidentiality obligations, and protect public health.

Committee Observation
The Committee noted the proposal by the Society but observed that the provision requiring the generation of electronic tax invoices provides tax collection compliance and would require further consultation with the Kenya Revenue Authority on the impact of the proposal in tax administration.

3.3.59 ASSOCIATION OF GAMING OPERATORS – KENYA (AGOK)

Clause 2 (d)

1210. Amend clause 2 (d) to retain the existing withholding tax on withdrawals as opposed to the proposed withholding tax on winnings, because the withdrawals-based regime provides a transparent, verifiable and efficient tax collection mechanism.

Committee Observation
The Committee noted the concerns raised by AGOK and recommended amending the definition to provide clarity in the administration of tax.

1211. Amend the clause to specify that 20% withholding tax on lotteries and prize competitions be applicable only to the non-betting and non-gaming operators because the 20% withholding tax on lotteries and prize competitions, alongside existing taxes on deposits and withdrawals, amounts to double taxation.

Committee Observation
The Committee noted the concerns raised by AGOK and resolved to harmonize taxation on betting.

Clause 2(d)
1212. Amend the clause to have clear definitions of and withdrawals to avoid tax administration ambiguity and consistent application.

Committee Observation
The Committee agreed with AGOK to provide clearer definition on 'withdrawals' so as to enhance efficient compliance.

Clause 36 (c)
1213. Amend to maintain the current excise duty on deposits with targeted refinements rather than broad definition to avoid operational and administrative complexities.

Committee Observation
The Committee acknowledged the concerns raised by AGOK and observed that the proposals in the Bill harmonise terms and definitions relating to betting and gaming activities under the Excise Duty Act.

New Proposal
Unified Gross Gaming Revenue (GGR)-Based Tax for Land-Based Operators
1214. Propose a unified GGR-based tax regime for land-based operators, reflecting operational realities and improving compliance efficiency (without excise tax on deposits and withholding tax on withdrawals, which are not possible to implement in land -based operations).

Committee Observation

The Committee acknowledged the proposal but noted that the amendment in the Bill was intended to remove ambiguity in the interpretation of deposits, ensure consistency in the application of excise duty across different gaming platforms and payment methods, and strengthen enforceability of tax.

Clause 36 (b), (c)

1215. Amend to retain the current excise duty on amount deposited into a customer's betting wallet at 5% because the revised definition will create tax ambiguity.

Committee Observation

The Committee acknowledged the concerns raised by AGOK and observed that the proposals in the Bill harmonise terms and definitions relating to betting and gaming activities under the Excise Duty Act.

1216. Amend the clause 36(c)(ii) to read:

"Amount deposited into a customer's betting wallet" means the amount of money or money's worth transferred by a customer into the customer wallet maintained by a licensed online betting and gaming operator for betting and gaming purposes."

1217. The definition will remove the ambiguity.

Committee Observation

The Committee acknowledged the concerns raised by AGOK and observed that the proposals in the Bill harmonise terms and definitions relating to betting and gaming activities under the Excise Duty Act.

Clauses 7 and 17

1218. Amend Section 10 of the Income Tax Act is amended in subsection (1), by adding the following new paragraphs immediately after paragraph (m), Section 35 of the Income Tax (a) in subsection (1) (iii)by adding the following new paragraphs immediately after paragraph (u) -

(w) winnings; to read as follows;

"winnings" means a pay-out, by a person licensed issued under the Gambling Control Act, 2025, from a lottery or prize competition under the Gambling Control Act, 2025, whose core business is not betting and gaming, but does not include the amount staked or wagered."

1219. The proposed tax treatment may affect the commercial viability and sustainability of regulated lottery and prize competition products, shifting users toward unregulated channels with lower transaction transparency and reduced tax certainty. The proposed amendment will ensure that licensed operators, who already withhold tax on withdrawals, are not subject to double taxation on prize competitions.

Committee Observation
The Committee noted the concerns raised by AGOK and resolved to harmonize taxation on betting.

Clause 2 (d)
1220. Amend the clause to retain the current withholding tax framework on withdrawals at 5%.

Committee Observation
The Committee noted the concerns raised by the stakeholder but observed that the proposed amendment reintroduces a 20 per cent withholding tax on winnings from prize competitions and lotteries, thereby closing the gap created by the Finance Act, 2025, removing ambiguity in the tax treatment of such winnings, and promoting certainty and consistent application of the withholding tax framework while safeguarding government revenue.

1221. Amend Section 2 (1) of the Income Tax Act in subsection (2) (d) to read as follows:
"withdrawals" means the amount of money or moneys worth withdrawn by a customer from their online betting or gaming wallet maintained by a person licensed under the Gambling Control Act, 2025"

1222. The proposed amended definition under the Finance Bill, 2026, may inadvertently shift the taxable event from actual customer withdrawals to broader payout concepts, thereby creating ambiguity in administration and reducing certainty in revenue collection.

Committee Observation
The Committee agreed with AGOK to refine the definition of withdrawals so as to eliminate ambiguity and provide clarity in tax administration.

3.3.60 DIGITAL FINANCIAL SERVICES ASSOCIATION OF KENYA (DFSAK)

New Proposal – Section 15(2)(a) of the Income Tax Act
1223. Amend to introduce a new proviso under Section 15 (2) (a) to read as follows:

"Provided that, in the case of a person carrying on a moneylending business, including a licensed bank, microfinance institution, digital credit provider or other regulated credit provider, a debt that has become bad in accordance with guidelines issued by the Commissioner shall include the principal, interest and any other amount relating to the debt."

1224. Bad debts incurred by money lending businesses are a direct consequence of lending, which is their core business. Such bad debts should therefore be allowable, inclusive of both the principal and interest elements.

Committee Observation

The Committee noted DFSAK's concerns on the treatment of bad debts for money-lending businesses is noted. However, it observed that the matter is subject to ongoing legal interpretation and should not be addressed through a broad amendment before the legal and administrative position is settled. In addition, the proposed bad debt regulations are expected to provide further guidance on the treatment of bad debts and allowable deductions.

New Proposal - VAT Act - Sale of collateral and repossessed assets

1225. Amend part I of the First Schedule to the VAT Act by inserting the following new paragraph 171 after paragraph 170:

"(171) The sale, disposal or realisation of collateral, repossessed assets or secured property, where such sale, disposal or realisation arises from the enforcement of security in connection with a loan, credit facility or other exempt financial services."

1226. Treating the sale of collateral as a separate taxable supply would undermine the VAT principle that any ancillary or incidental activities should follow the VAT treatment of the principal supply. If the sale of repossessed assets is made subject to VAT, it effectively treats lenders as if they are in the business of trading goods, which does not reflect their actual role or regulatory responsibilities.

Committee Observation

The Committee agreed with the proposal by DFSAK.

Clause 16

1227. Delete the clause and retain Section 24(1) as currently outlined in the ITA. They submitted that the proposed measure, while intended to improve discipline around distributions, could have unintended effects on digital credit providers.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 31(b)(i)

1228. Amend Paragraph 1, subparagraph (b) of Part II of the First Schedule to the VAT Act, as follows:

"(b) the issue, transfer, receipt or any other dealing with money, including —

(i) money transfer services, ii) accepting over the counter payments of household bills, and (iii) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money."

1229. The proposal would amount to taxing capital flow rather than final consumption, a level playing field for all players in the financial services sector, discouraging financial innovation and invention in the financial services sector, supporting the Government policy on financial inclusion, and improved traceability of transactions. VAT on payment processing creates embedded cost increases across every digital transaction, disproportionately affecting high-volume, low-value lending characteristic of the mass-market segment. It also risks pricing smaller DCPs out of the market, consolidating the sector around only the largest operators and reducing competition in digital credit.

Committee Observation

The Committee acknowledged the concerns raised by DFSAK and therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

New Proposal – Income Tax Act

Section 23A

1230. Amend section 23A(4) of the TPA by inserting the words:

"other fees charged by financial institutions and digital credit providers, accruals, forex exchange losses," before "payments subject to withholding tax that is a final tax".

1231. The proposal to expressly exempt fees charged by financial institutions and digital lenders is aimed at addressing a gap in the current framework, where such fees are exempt in the Regulations but not in the TPA.

Committee Observation

The Committee noted that DFAK's proposal would materially weaken the integrity of the eTIMS framework under section 23A by reintroducing broad categories of non-invoice-based deductions, thereby undermining the core objective of real-time transaction verification and audit trail completeness. Exempting accruals, FX losses, and financial charges from electronic invoicing requirements creates significant scope for subjective interpretation and post-facto adjustments, increasing revenue assurance risks and reducing transparency in taxable profit computation. While phased implementation for administrative readiness is reasonable, expanding allowable non-eTIMS documentation at the statutory level would dilute compliance discipline and reintroduce the very leakage and verification gaps the system was designed to eliminate.

1232. Amend section 23A by inserting a new subsection immediately after subsection 5

"6) The Commissioner may, by notice in the Gazette, prescribe a phased implementation schedule for the requirement to issue electronic tax invoices under this section, having regard to the nature of the business, annual turnover, sector, or such other criteria as may be deemed appropriate to facilitate compliance and effective administration."

1233. A phased rollout of eTIMS would ease the compliance burden, especially for SMEs that may lack the systems to comply immediately.

Committee Observation

The Committee noted that DFSAK's proposal would materially weaken the integrity of the eTIMS framework under section 23A by reintroducing broad categories of non-invoice-based deductions, thereby undermining the core objective of real-time transaction verification and audit trail completeness. Exempting accruals, FX losses, and financial charges from electronic invoicing requirements creates significant scope for subjective interpretation and post-facto adjustments, increasing revenue assurance risks and reducing transparency in taxable profit computation. While phased implementation for administrative readiness is reasonable, expanding allowable non-eTIMS documentation at the statutory level

would dilute compliance discipline and reintroduce the very leakage and verification gaps the system was designed to eliminate. As such, the proposal was not supported.

New Proposal – Section 15(4) of the ITA

1234. Amend section 15(4) of the ITA to extend the tax loss carry forward period to ten years and to provide a transitional clause for the implementation of the 10-year limitation to read as follows:

"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 ten years of income. Provided that any deficit incurred by a person as at 1st July 2025 shall be deemed to have been incurred in that year of income."

1235. In the context of digital credit providers, particularly new and start-up entities, a five-year limit on the utilization of tax losses may be too restrictive. To safeguard businesses that incur genuine tax losses and require a longer period to utilize them, the government should consider extending the carry-forward period to 10 years.

Committee Observation

The Committee noted the proposal by DFSAK but was of the view that extending tax loss carry-forwards to ten years would significantly erode the time-bound discipline embedded in section 15(4), which is intended to ensure that tax relief reflects economically current losses rather than indefinitely accumulated deductions that distort the tax base. The inclusion of a deeming transitional clause effectively re-characterizes historical losses, creating fiscal uncertainty and increasing the risk of substantial revenue leakage through prolonged utilization of pre-regime losses without a clear sunset mechanism. While sector-specific challenges such as digital credit provider profitability cycles are acknowledged, international practice generally balances investment incentives with finite loss utilization periods, and Kenya's five-year framework already represents a reasonable compromise between investment recovery and revenue protection. As such, the proposal was not supported.

Clause 19

1236. Delete the proposal because it aims to speed up tax reporting timelines, but implementing it now may create more challenges than benefits. It would be more practical to defer implementation until taxpayers are fully settled into the new systems and better prepared for shorter timelines.

Committee Observation

The Committee acknowledged DFSAK's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23 (d)

1237. Delete the proposed subparagraph (d) in its entirety because the current Capital Gains Tax (CGT) framework under Paragraph 2 of the Eighth Schedule already provides comprehensive coverage of gains subject to tax; the introduction of subparagraph (d) is likely to create ambiguity and potential inconsistency within the CGT framework and introducing a provision that taxes all indirect transfers without any threshold would likely deter foreign direct investment.

Committee Observation

The Committee acknowledged the concerns raised by DFSAK but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained.

Clauses 31 and 32

1238. Amend to retain the zero-rated VAT treatment for the supply of locally assembled and manufactured mobile phones because a tax measure that increases the price of smartphones, irrespective of whether those phones are imported or locally assembled, limits financial inclusion that the digital economy relies on. The proposed exemption of locally assembled mobile phones, coupled with the Bill's proposed exemption of imported phones from the import declaration fee (IDF), will make imported devices cheaper than locally assembled ones.

Committee Observation

The Committee acknowledged the concerns raised by DFSAK and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 36(a)

1239. Retain the current exemption of locally assembled or manufactured telephones from excise duty and current excise duty rate of 10% of the excisable value. The imposition of excise duty on locally assembled mobile phones, coupled with the Bill's proposed exemption of imported phones from IDF and RDL, as well as the change in status of locally assembled phones from zero-rated to exempt, will make imported devices cheaper than locally assembled ones which is contrary to the Government's policy to foster local manufacturing.

Committee Observation

The Committee agreed with the concerns raised by the DFSAK and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

1240. Delete the proposed amendment in its entirety because the right to appeal an adverse decision is a fundamental component of the rule of law and the constitutional rights to fair administrative action and access to justice (Articles 47 and 48, Constitution of Kenya 2010). Permitting the Commissioner to enforce tax collection during the currency of a valid appeal renders the appeal process nugatory.

Committee Observation

The Committee considered the concerns raised by DFSAK and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 42

1241. Delete the proposal and in the alternative, we recommend the amendment of the proposal to introduce a new subsection (3) that would read as follows:

"(3) An assessment under subsection (1) shall not be made after five years immediately following the last date of the reporting period to which the assessment relates."

1242. The proposal results in disputes particularly where assessments are generated from incomplete, automated or untested information. If the provision is enacted and whether administrative guidance emerges to confine its use to clear, risk-based scenarios rather than routine assessment origination. If section 29A is enacted, this may require closer consideration where the assessment is based primarily on third-party, system-generated, or other external data that the taxpayer may not have had prior visibility of or an opportunity to reconcile before the assessment is issued.

1243. Include an explicit requirement for the Commissioner to provide detailed reasons for an assessment issued under the proposed provision, including the evidence relied upon and the rationale supporting the Commissioner's determination. Further, taxpayers ought to be granted a period of at least 30 days before the issuance of the assessment for them make representations and to verify the data relied upon by the Commissioner in the assessment.

Committee Observation

The Committee acknowledged DFSAK's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 38

1244. Amend subsection (1) as below:

"Each licensed virtual asset service provider shall maintain record-keeping systems in compliance with the Virtual Asset Service Providers Act and data protection laws. For the purposes of tax compliance, the Commissioner shall, in consultation with the relevant regulatory authorities designated under the Virtual Asset Service Providers Act, establish an automated inter-agency information-sharing framework. A virtual asset service provider shall be deemed to have fulfilled its annual information return requirements under this section by virtue of its regular compliance disclosures to its primary regulatory authority."

1245. By anchoring tax data retrieval within the preexisting compliance pipelines mandated under the VASP Act, this approach completely eliminates redundant infrastructural costs and administrative duplicity for innovators. Sustaining an agile, consolidated reporting ecosystem is vital to maintaining Kenya's competitive edge as a leading, compliant hub for financial technology.

Committee Observation

The Committee acknowledged DFSAK's concerns but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder concerns.

3.3.61 FLAMINGO HORTICULTURE KENYA LIMITED (FHKL)

New Proposal – Value Added Tax Act

Section 5 (2)

1246. Amend section 5(2) of the VAT Act to introduce the following provision:

"(c) notwithstanding paragraph (b), where a registered person incurs purchases of taxable goods or services that are wholly and exclusively attributable to supplies that qualify as exports within the meaning of section 2 of this Act, the rate of value added tax applicable to such purchases shall be eight per cent (8%) of the taxable value of those purchases."

1247. The proposed reduction of the applicable rate of value added tax on purchases attributable to export supplies from sixteen per cent (16%) to eight per cent (8%) is designed to address the structural cashflow constraints faced by FHKL, and other registered persons engaged in exporting goods.

Committee Observation

The Committee noted the proposal by FHKL but observed that it would require research to determine the impact of the proposal on revenue mobilization.

Clause 47

1248. Delete the proposal and retain the current provisions. Additionally, amend Section 47(5) (c) of TPA, which provides the order of refund to be explicit and read as follows:

"*any reminder shall be refunded to the taxpayer in the form of cash and/or Treasury bonds.*"

Committee Observation

The Committee considered the concerns raised by FHKL and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

1249. Amend Section 47(6) be amended to read as follows:

"(1) Where a refund is due to a taxpayer pursuant to Section 47(5)(c) in respect of cash or Treasury bonds, the Commissioner shall effect such refund within six months from the date the refund becomes due.

(3) Where a refund is due to a taxpayer pursuant to Section 47(5)(a) or (b), the Commissioner shall, within thirty (30) days from the date the refund becomes due, issue the requisite refund vouchers to the taxpayer, which shall be offset against all current and future tax liabilities.

(4)A refund due and payable to a taxpayer under Section 47(5) shall not be withheld, suspended, set off, or otherwise interfered with by reason of any audit, investigation, or assessment initiated or ongoing against that taxpayer, and the Commissioner shall process and effect such refund independently of any such audit, investigation, or assessment."

1250. The proposed amendments are accordingly commended for adoption in the interest of sound fiscal administration and broad-based economic growth.

Committee Observation

The Committee acknowledged FHKL's proposal but noted that the proposal removes essential administrative safeguards by requiring unconditional issuance of refunds and prohibiting linkage with ongoing audits, thereby exposing the tax system to significant revenue recovery risks, including payment of erroneous or fraudulent claims before verification is completed. Section 47 is designed to balance taxpayer liquidity needs with the Commissioner's statutory duty to validate refund claims, and decoupling refunds from audit processes would undermine compliance enforcement and weaken the integrity of the refund system. Existing administrative timelines already provide sufficient certainty, and introducing rigid voucher issuance and payment obligations would reduce flexibility needed to manage high-risk refund claims in a complex tax environment. As such, the proposal was not supported.

Clause 45

1251. Delete the clause because Flamingo Horticulture Kenya Limited, like any taxpayer, may be subjected to tax audits, which may result in appeals. Allowing enforcement action during the pendency of such appeals exposes the company to premature cash outflows before the dispute is conclusively determined, which undermines the purpose of the appeals mechanism.

Committee Observation

The Committee considered the concerns raised by FHKL and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 51 (b)

1252. Amend the clause to read as follows;

"(5B) Despite subsection (5A), the Commissioner may 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 by an electronic tax system."

1253. The introduction of an upper limit discriminates against large taxpayers such as FHKL.

Committee Observation

The Committee acknowledged the concerns raised by FHKL but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

Clause 49

1254. Delete the clause because the reduced timelines will increase the likelihood of non-compliance, including late filing or submission of incomplete objections, which may lead to automatic dismissal of objections and appeals.

Committee Observation

The Committee considered FHKL's concerns and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 43 (c) (ii) and (d) (ii)

1255. Amend the clause to read as follows:

"*(c)(ii) in paragraph (b), by deleting the expression "30th June, 2025" appearing immediately after the words "later than the" and substituting therefor the expression "30th June, 2027"*

(d)(ii) by deleting the expression "30th June, 2025" appearing immediately after the words "unpaid on the" and substituting therefor the expression "30th June, 2027"

1256. Affording sufficient time will allow Flamingo Horticulture Kenya Limited, among many other taxpayers, to fully benefit from the amnesty.

Committee Observation

The committee noted that the waivers and timelines provided in the Bill are sufficient.

3.3.62 NATIONAL TAXPAYER ASSOCIATION

Clauses 18 and 19

1257. The stakeholder expressed support for the amendments, provided that implementation is sensitive to the realities faced by Micro, Small, and Medium Enterprises (MSMEs). While a two-month compliance period may be manageable for large corporations with dedicated finance teams, it presents significant operational challenges for small businesses, sole proprietors, and individual taxpayers who largely depend on external accountants and tax consultants. Consequently, they proposed a phased implementation approach, whereby large corporates and medium enterprises would comply in the first year, MSMEs in the second year, and individual taxpayers in the third year. They further emphasized that the Kenya Revenue Authority (KRA) must strengthen its digital filing systems, expand helpdesk support, and intensify public awareness and taxpayer education initiatives ahead of the January 2027 effective date.

Committee Observation

The Committee acknowledged the National Taxpayer Association's concerns and noted that the proposal to revise filing timelines would

improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clauses not in the Finance Bill,2026: Tax on Residential Rental Income for a resident person

1258. Delete the proposal to increase the rental income tax from 7.5% to 10%

Committee Observation
The Committee acknowledged the concerns raised by the National Taxpayer Association. However, it was observed that the proposal does not form part of the amendments contained in the Finance Bill, 2026.

1259. They Association proposed a phased implementation of the measure and urged the Government to first invest in modernizing customs administration and clearance processes at points of entry before introducing additional levies. They noted that the proposal to deem taxable profit at 5% of the customs value of imported goods, which would then be subject to the 30% corporate income tax rate, resulting in an effective tax of 1.5% of the customs value. In addition, imported goods would still attract 16% VAT at the point of entry, further increasing the tax burden on importers.

Committee Observation
The Committee acknowledged the concerns raised by the National Taxpayer Association but observed that they were not as presented in the Finance Bill,2026. The Bill's proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

Clause 4

1260. The National Taxpayers Association was in support of the proposal noting that this will ensure that non-resident who benefit from Kenya's real estate market contribute

their fair share to the base. This aligns with the National Tax Policy principles on international taxation and the Source Principle.

Committee Observation

The Committee agreed with the National Taxpayers Association noting that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework.

Clause 24 (b) (i) and (ii)

1261. The Association expressed support for the proposal to reduce the corporate income tax rate applicable to non-resident contractors in the mining industry from 37.5% to 30%, thereby aligning it with the general corporate tax rate. They also supported the introduction of a 15% tax on repatriated income earned by non-resident mining operators. In their view, these tax measures are likely to enhance investment attractiveness and improve competitiveness within the extractive sector.

Clause 32

1262. They expressed support for the proposed VAT exemptions on a range of goods and services, including electric buses and electric bicycles, telecommunication equipment for cellular and wireless networks (whether imported or locally sourced), motorcycles, solar products and lithium-ion batteries, dialyzers, scrap metal, animal feed, and pharmaceutical raw materials. They also supported VAT exemptions on the transportation of sugarcane to milling facilities, infrastructure projects implemented under public–private partnerships, and the supply of human and animal blood.

Committee Observation

The Committee noted the Association's proposals but was of the view that making the goods VAT exempt would require the manufacturer to incur the cost of input VAT which would then be passed to the final consumer. This may make these goods more costly. Further, the Committee agreed to the proposal to make the supply of human and animal blood an exempt service.

Proposal not in the Bill

They expressed support for the proposal to extend the record-keeping period under Section 31 from two to three years, thereby providing the Kenya Revenue Authority (KRA) with a longer audit window. This change aligns with international best practice and is expected to strengthen tax compliance and improve information gathering. However, they noted that the extended retention period may increase compliance

costs for businesses, particularly MSMEs, which may be required to invest in more robust record management systems.

Committee Observation

The Committee noted the National Taxpayers' Association submission. However, the Bill doesn't have a proposal to that effect.

Clause 28

1263. The stakeholder observed that the government should consider expediting the bad debt relief process to provide timely support to businesses experiencing liquidity constraints.

Committee Observation

The Committee acknowledges the concerns raised by the Association but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 36(a)(i)

1264. Delete the clause introducing 25% excise duty on mobile phones and wireless communication devices. They noted that Kenya has achieved remarkable penetration rates, with the mobile phone being the gateway to mobile banking, government services (eCitizens), business communication, and social connectivity. Therefore, a 25% Excise duty will make smartphones more expensive, reversing digital inclusion gains, and it will also create a secondary market for inactive phones, potentially leading to tax evasion.

Committee Observation

The Committee agreed with the concerns raised by the Association and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal

Clause 36 (vi), (vii)

1265. The stakeholder supported the proposal to increase excise duty on tobacco, alcohol, and sugar-related products, higher tobacco taxes are one of the most effective public health tools and revenue-raising measures.

Committee Observation

The Committee agreed with the Association noting that the proposed increase in the excise duty rate on cigars, cheroots and cigarillos is intended to account for inflation, maintain the real value of the tax, and address the negative externalities associated with tobacco products.

Clause 43

1266. The stakeholder supported the proposal as this will provide businesses with an opportunity to regularize tax affairs accumulated during COVID-19 and post-reverse the court's ruling through legislative action.

Committee Observation

The Committee agreed with the Association as the Tax Amnesty will support revenue mobilisation.

Clause 57

1267. Delete the proposal to reduce the amount into the Road Annuity Fund from KSh. 3 to KSh. 1.50 per litre of fuel sold. This reduces a specific levy that feeds into road construction financing. While this slightly reduces the fuel levy burden on consumers, it also reduces resources available for road infrastructure, a tension between short-term relief and long-term development.

Committee Observation

The Committee acknowledged the concerns raised by the Association but noted that the proposal reduces the allocation to the Annuity Fund from KSh 3 to KSh 1.5 per litre, as no new annuity projects are planned and existing obligations can be met under the revised inflows. The Committee further observed that the reallocated funds will enhance road maintenance financing and support the approved securitization framework. As such, the proposal was not supported.

3.3.63 SHELL VIVO

Clause 47

1268. Delete the proposal as its introduction could introduce ambiguity regarding offsets against input VAT.

Committee Observation

The Committee considered the concerns raised by Shell Vivo and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

New Proposal

Tax Procedures Act, Section 47

1269. Amend by inserting a sub-section immediately after subsection 47(13) to read as follows:

47(14) For the purpose of this section, "future tax liabilities" means all taxes imposed and payable under a tax law including value added tax payable on importation of taxable goods.

1270. The stakeholder submitted that the amendment is intended to provide clarity on VAT treatment regarding the importation of taxable goods that qualify as a future tax liability. This inclusion is intended to address existing ambiguities and prevent differing interpretations of the law.

Committee Observation

The Committee noted the proposal but did not agree with Shell Vivo given the proposal has not been explored to determine its impact in the sector and revenue collection.

3.3.64 GOOGLE

Clause 2(b)

1271. Delete this proposal, for it will increase the cost of card payments and digital payment channels. The proposal would make electronic payments more expensive for businesses and consumers by increasing transaction costs. Higher costs discourage the use of digital payment systems, undermine Kenya's digital economy agenda, and encourage a return to cash transactions, reducing financial inclusion and tax transparency. Additionally, the proposal will create a risk of double collection of tax.

It may result in the same transaction or income being taxed more than once, leading to unfair taxation and increased compliance costs. Double taxation creates uncertainty for taxpayers, discourages investment, and undermines confidence in Kenya's tax system.

Committee Observation

The Committee noted the concerns raised by Shell Vivo but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money. Therefore, the proposal was not supported.

Clause 36 (a) (i)

1272. Delete the proposal that increases the cost of mobile phones. Increasing taxes on mobile phones will raise the retail prices of devices essential for communication, education, business, financial services, and access to government services. Higher prices will reduce digital inclusion, particularly among low-income households and young people. The proposal lacks clarity on whether imported and locally assembled mobile phones will be taxed differently, creating uncertainty for manufacturers, importers, distributors, and retailers. Tax laws should provide certainty and predictability to facilitate compliance and investment decisions

Committee Observation

The Committee agreed with the concerns raised by Shell Vivo and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 41

1273. Delete the proposal that expands the assessment and enforcement powers of the Kenya Revenue Authority (KRA) without corresponding procedural safeguards. Granting broader enforcement powers without adequate checks and balances may expose taxpayers to arbitrary assessments and administrative action. Any expansion of KRA's powers should be accompanied by clear procedural safeguards, transparency requirements, and effective dispute resolution mechanisms to protect taxpayer rights.

Committee Observation

The Committee acknowledged Shell Vivo's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 45

1274. Delete the proposal that would reverse recently enacted taxpayer protections. The proposal would roll back important taxpayer protections that were introduced to promote fairness, accountability, and certainty in tax administration. Removing these protections would weaken taxpayer confidence, increase disputes between taxpayers and the tax authority, and create an unpredictable business environment.

Committee Observation

The Committee considered the concerns raised by Shell Vivo and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

3.3.65 GSMA

Clause 36 (a) (i)

1275. Delete the 25% excise duty on entry-level 4G-enabled telephones for cellular and wireless networks priced at or below KES 15,000.

Committee Observation

The Committee agreed with the concerns raised by GSMA and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (b) (i)

1276. Delete the proposal on VAT exemption for mobile money and related digital payment services to avoid raising costs for low-income users and small businesses. Apply VAT exemption consistently across all providers offering functionally similar retail money transfer and payment-processing services within the digital payments and mobile money ecosystem.

Committee Observation

The Committee acknowledges the concerns raised by GSMA and therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

3.3.66 ATC KENYA OPERATIONS LIMITED

New Proposal

Income Tax Act, First Schedule

1277. Amend by inserting the following paragraph in the First Schedule to the Income Tax Act:

"76. The transfer of business or assets into—

a. a Real Estate Investment Trust authorized under the Capital Markets Act (Cap. 485A); or

b. an investee entity of a Real Estate Investment Trust authorized under the Capital Markets Act (Cap. 485A).

Provided that the exemption under this paragraph shall only apply where the transfer forms part of a restructuring, asset transfer arrangement, or acquisition undertaken under an approved Real Estate Investment Trust scheme."

1278. The stakeholder submitted that this amendment removes avoidable tax friction on transfers into approved REITs; supports the growth of approved REITs; and expands the contribution of REITs to economic development.

Committee Observation

The Committee noted the proposal but did not agree with ATC Kenya given the proposal has not been explored to determine its impact in the sector and revenue collection.

3.3.67 PKF TAXATION SERVICES LIMITED

Clause 2 (b)

1279. Delete the proposal since interchange fees and merchant service fees are automated transactional charges arising from payment processing systems, and not payments for managerial, consultancy, or professional services as ordinarily contemplated under the Income Tax Act. Further, the stakeholder views the proposal as increasing the cost of electronic transactions and discouraging the adoption of cashless payments.

Committee Observation

The Committee noted the concerns raised by PKF Taxation Services Limited but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

1280. Delete the clause in its entirety because it significantly broadens the scope of royalty beyond internationally accepted principles and risks re-characterizing ordinary commercial and service payments as royalty payments subject to Withholding Income Tax. Further, the proposal would undermine legal certainty, increase the cost of digital financial services and software access and potentially expose taxpayers to double taxation.

Committee Observation

The Committee noted the concerns by PKF Taxation Services Limited and in line with international best practices, recommended the deletion of the provision that proposes to define the distribution of software as an activity that generates royalties.

Clause 3 (b) (ii)

1281. Delete the proposal because imposing a fixed cap of thirty-one per cent of basic salary as a condition for preferential tax treatment may penalize legitimate gratuity and retirement benefit arrangements that exceed the threshold for valid commercial and employment reasons.

Committee Observation

The Committee acknowledged the concerns raised by PKF but noted that the amendment introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework. As such, the proposal was not supported.

Clause 4

1282. Amend the proposal by inserting an applicable tax rate for non-resident rental income. The stakeholder submitted that a separate tax regime for non-resident rental income without specifying the applicable tax rate creates uncertainty for taxpayers and investors and may lead to inconsistent interpretation and administration of the law.

Committee Observation

The Committee noted the proposal by PKF and observed that the Third Schedule Head B – Paragraph 3(c)(i) provides that the rate of tax in respect of a rent premium or similar consideration for the use of property as 30% of the gross amount payable; and in respect of a rent, premium, or similar consideration for the use of property other that immovable property at 15% of the gross amount payable.

Clause 6

1283. Amend the proposal to provide for the payment of tax within five working days. This will enhance clarity and certainty in relation to the tax remittance timeline.

Committee Observation

The Committee acknowledged the concerns raised by PKF but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clause 16

1284. Delete the proposal since the introduction of a threshold of at least 60% may adversely affect businesses that legitimately retain earnings for expansion, capital investment, debt servicing, working capital requirements and cushioning against economic uncertainty thus restricting corporate flexibility in financial planning.

Committee Observation

The Committee acknowledged the concerns raised by PKF Taxation Services and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 17 (a) (ii)

1285. Delete the clause and amend Section 35 (1) (u) as well as Third Schedule to align with Section 9 (1) of the Income Tax Act.

Committee Observation

The Committee acknowledged PKF's concerns and agreed that the proposed repeal of the exemption on payments by the national carrier to non-resident service providers would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. The Committee further noted the potential adverse impact on competitiveness and operational efficiency of the national carrier and therefore recommended deletion of the proposal.

Clause 18 and 19

1286. Delete the clauses, as the current six-month filing period provides companies with adequate time to finalize financial statements, complete statutory audits, undertake tax computations and reconciliations, and obtain the necessary internal approvals before submitting accurate self-assessment returns.

Committee Observation

The Committee acknowledged PKF's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The

Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 26

1287. Accept the proposal, as it provides legal clarity and ensures that only regulated entities benefit from the VAT exclusion on financial charges, thereby preventing potential tax leakage in unregulated credit arrangements.

Committee Observation

The Committee agreed with PKF and observed that the proposed amendment clarifies the VAT treatment of financial charges by limiting the exclusion to agreements regulated under the Hire Purchase Act, while expressly ensuring that financial charges are included in the taxable value where appropriate to prevent avoidance and ensure consistent VAT treatment of hire purchase arrangements. The Committee further noted that the amendment is intended to address existing ambiguity that has allowed taxpayers to structure sales agreements to resemble hire purchase arrangements and shift value into non-taxable finance charges, thereby reducing output VAT and creating VAT leakage through aggressive contractual structuring and inconsistent application of the law.

Clause 28

1288. Delete the proposal as it will create significant cash flow constraints and potential negative implications for business operations.

Committee Observation

The Committee acknowledged the concerns raised by PKF and noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 31 (a) (ii)

1289. Delete the proposal because it will create intricacies of funding by the donors who have restricted measures relating to financing of taxes in the projects.

Committee Observation

The Committee acknowledged the concerns raised by PKF; however, it observed that it is difficult to verify whether items are exclusively used for the purpose specified in the law. Therefore, the Committee recommended deletion of the proposal.

Clause 31 (a) (iv)

1290. Delete the proposal as this reclassification will increase the price of tourism in Kenya, which may lead to a decline in tourist numbers.

Committee Observation

The Committee acknowledged the concerns raised by the PKF; however, it observed that it is difficult to verify whether items are exclusively used for the purpose specified in the law. Therefore, the Committee recommended retention of the proposal in the Bill.

Clause 31 (a) (vi)

1291. Accept the proposal as this will allows travellers to bring in more goods for personal use without incurring tax.

Committee Observation

The Committee agreed with PKF as the proposed amendment aligns the VAT Act with the East African Community Customs Management Act by correcting the passenger import exemption threshold from USD 300 to USD 2,000. The Committee further noted that the amendment addresses the existing inconsistency in the treatment of passenger imports, enhances legal clarity, and promotes harmonisation of regional tax and customs frameworks.

Clause 31 (a) (vii)

1292. Delete the proposal, as this reclassification will increase construction costs for affordable housing, contradicting the national goal of providing accessible and affordable housing to citizens.

Committee Observation

The Committee agreed with PKF and noted that the exemption was made to support the government's affordable housing programme under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31 (a) (ix)

1293. Delete the proposal inserting paragraph 160 and 161 as it will make animal feeds and pharmaceutical products less affordable.

Committee Observation

The Committee acknowledged the concerns raised by PKF and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds and pharmaceuticals would increase the cost. Therefore, the committee recommended deletion of the proposal.

Clause 31 (a) (ix)

1294. Delete the proposal inserting paragraph 162 as transporters of sugarcane from the farms to the milling factories will not be eligible for claiming the Input VAT.

Committee Observation

The Committee acknowledged the concerns raised by PKF and agreed that rationalising VAT exemptions on the transportation of sugar will increase transportation costs. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 31 (a) (ix)

1295. Delete the proposal inserting paragraph 166, as the buyers cannot claim a refund for such purchases/input VAT.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (b) (i)

1296. Delete the proposal seeking to subject specific financial services (carriage of cash, money transfers, and payment processing via digital platforms) to VAT at 16%. The stakeholder believes this shift is likely to increase the cost of financial services, discourage the use of formal digital payment systems, and undermine financial inclusion for small businesses and low-income users.

Committee Observation

The Committee acknowledges the concerns raised by PKF and therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36 (a) (xiv) to (xxxiii)

1297. Delete the various provisions seeking to exclude goods that originate from East African Community Partner States as Imports. The stakeholder submitted that this proposal, if enacted, will discourage trade between Partner States.

Committee Observation

The Committee noted PKF's proposal but recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 43

1298. Accept the proposal as it will encourage voluntary tax compliance and provide taxpayers with an opportunity to clear historical tax liabilities without the burden of accumulated penalties and interest.

Committee Observation

The Committee agreed with PKF as the Tax Amnesty will support revenue mobilisation.

Clause 45

1299. Delete the proposal as its enactment could violate taxpayers' rights, as it gives the Commissioner authority to collect disputed taxes without considering the taxpayers

outcome. This situation might also lead to liquidity issues for taxpayers, as they could be compelled to pay contested taxes, regardless of the final decision.

Committee Observation

The Committee considered the concerns raised by PKF and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 47

1300. Delete the proposal as its enactment would undermine efficient and fair tax administration, as it prevents taxpayers from enjoying the benefit of tax credits or overpayments that are already legally due to them, thereby unnecessarily burdening the taxpayer financially.

Committee Observation

The Committee considered the concerns raised by PKF and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 49

1301. Delete the proposal as its enactment would deny taxpayers ample time to prepare appeals and objections and could effectively lead to more tax cases proceeding to the advanced tax litigation process.

Committee Observation

The Committee considered the concerns raised by PKF and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters.

The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 51 (b)

1302. Amend by allowing the Commissioner to waive all penalties and interest caused by system errors. The stakeholder submitted that empowering the Commissioner to waive all penalties arising from system errors would shorten the administrative process beyond the taxpayer's control.

Committee Observation

The Committee acknowledged the concerns raised by PKF and observed that the proposal provided for in the proposed new Section 89(5B) was sufficient in the case of an error generated by an electronic tax system.

New Proposal

Income Tax Act, Section 15(4)

1303. Amend the period for carrying forward business losses from 5 years to an indefinite period. According to the stakeholder, limiting the carry forward discourages investment and reduces Kenya's competitiveness compared to jurisdictions that permit indefinite carry forward of tax losses.

Committee Observation

The Committee noted the proposal but did not agree with the stakeholder given the proposal has not been explored to determine its impact in the sector and revenue collection.

3.3.68 RSM

Clause 2 (b)

1304. Delete this proposal in its entirety. The proposal would increase the cost of card payments by subjecting interchange fees and merchant service fees to withholding tax, with the additional costs likely to be passed on to consumers and businesses through higher transaction charges. This would discourage the use of digital payment channels, increase the cost of doing business, and undermine Kenya's financial inclusion and digital payments agenda under the National Payments Strategy 2022–2025. Retaining the current legal position would preserve certainty, support affordable digital transactions, and promote the growth of a modern cashless economy.

Committee Observation

The Committee noted the concerns raised by RSM but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective

clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

1305. Delete this proposal in its entirety. The proposal would increase the cost of accessing and using digital payment platforms by treating such payments as royalties, contrary to Kenya's National Payments Strategy 2022–2025, which seeks to promote affordable digital payments. It would also unfairly subject software distributors, who typically earn very low margins and do not own the underlying software, to withholding tax on royalty payments, potentially resulting in perpetual tax refund positions and increased compliance costs. The proposal would create uncertainty, discourage digital innovation, and undermine the growth of Kenya's digital economy.

Committee Observation

The Committee noted the concerns raised by RSM and in line with international best practices, recommended the deletion of the provision that proposes to define the distribution of software as an activity that generates royalties.

Clause 16

1306. Amend this proposal by limiting the Commissioner's power to deem distributed dividends to a maximum of thirty percent (30%) of a company's retained but undistributed earnings. Requiring deemed dividends on at least sixty percent (60%) of retained earnings would constrain businesses that legitimately retain profits for working capital, expansion, and investment purposes, potentially forcing them to rely on external borrowing. Capping the deemed dividend at 30 percent (30%) would strike a balance between tax administration and business sustainability by preserving liquidity, providing greater certainty for taxpayers, and supporting long-term economic growth and investment.

Committee Observation

The Committee acknowledged the concerns raised by RSM and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to

address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19

1307. Delete this proposal in its entirety. Reducing the statutory tax return filing period from six months to four months would impose a significant compliance burden on taxpayers, particularly businesses with complex transactions that require reconciliations and internal reviews. The shortened timeline is likely to increase filing errors, disputes, and compliance costs without improving revenue collection, since most taxes are already paid through instalment tax payments. Retaining the current six-month filing period would promote accurate reporting, enhance voluntary compliance, and support efficient and fair tax administration.

Committee Observation

The Committee acknowledged RSM's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

New Proposals

Income Tax Act – Third Schedule

1308. Amend the Income Tax Act proposal by adopting a more progressive individual income tax rate structure with wider tax bands and a maximum tax rate of 30 percent. The proposed revision would reduce the tax burden on low- and middle-income earners, provide relief against increased NSSF deductions, and enhance disposable income while maintaining fairness in the tax system. It would also align with the Medium-Term Revenue Strategy (FY 2024/25–2026/27), which recognizes the need for more progressive tax bands and harmonization of the top personal income tax rate with the corporate income tax rate, thereby promoting equity, economic growth, and voluntary tax compliance.

Monthly Taxable Income (KShs.)	Rate of Tax
0 – 30,000	10%
30,001 – 50,000	15%
50,001 – 200,000	20%

Above 200,000	30%

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee observed that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

1309. Amend Paragraph 1 of Head A of the Third Schedule to the Income Tax Act by deleting the words "twenty-eight thousand eight hundred shillings" and substituting therefor the words "thirty-six thousand shillings." The proposal seeks to increase the annual personal relief available to individual taxpayers from KShs. 28,800 to KShs. 36,000. This amendment is intended to reduce the tax burden on individuals, increase disposable income, and provide relief against the rising cost of living while enhancing the progressivity of the income tax system. This is to align the relief provision with the proposed amendment on the PAYE Bands above.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the Individual personal relief. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

Section 15

1310. Amend section 15 to provide:

(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 succeeding ten years of income.*

(4A) Provided that any deficit incurred by a person as at 1st July 2026 shall be deemed to have been incurred in that year of income.

1311. A five-year limitation is insufficient for capital-intensive investments such as infrastructure, manufacturing, and green energy projects, which often take longer to become profitable. Extending the period to ten years would allow taxpayers to fully utilize legitimate tax losses, support long-term investment, and provide greater

certainty by clarifying that the provision does not apply retrospectively to existing losses.

Committee Observation

The Committee noted the proposal but did not agree with RSM given the proposal has not been explored to determine its impact in the sector and revenue collection.

Clause 28

1312. Delete the proposal. As currently drafted, the proposal seeks to revert to the pre – Finance Act 2025 position, which had previously placed significant strain on businesses' operational cash flows by prolonging the period within which taxpayers can claim bad debt relief. This effectively requires businesses to continue financing VAT on supplies for which payment has not been received for an extended duration. In many instances, taxpayers would have already accounted for and remitted VAT to the Commissioner despite non - payment by customers. Extending the waiting period before relief can be claimed, therefore, exacerbates cash flow constraints, particularly for businesses operating in sectors with long credit cycles or high volumes of receivables.

Committee Observation

The Committee acknowledges the concerns raised by RSM but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. As such, the proposal was not supported.

Clause 29

1313. Amend the proposal as follows:

Section 42 of the Value Added Tax Act is amended —

(b) by deleting subsection (2) and substituting therefor the following new subsection —

(2) An invoice showing an amount that purports to be tax shall only be issued in respect of a taxable supply made by a registered person.

1314. While aligning invoicing requirements with the Tax Procedures Act is desirable, the proposed wording creates uncertainty regarding whether unregistered persons making taxable supplies may indicate VAT on their invoices. Clarifying the provision would promote legal certainty, prevent compliance disputes, and ensure a clear distinction between general invoicing obligations and VAT-specific documentation requirements.

Committee Observation

The Committee considered the concerns raised by RSM and agreed that extending the eTIMS invoicing requirement to all persons would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31(a)

1315. Delete this proposal in its entirety or reintroduce the affected items as zero-rated supplies. Reclassifying mobile phones and e-mobility products from zero-rated to VAT-exempt status would deny businesses the ability to recover input VAT, increasing production and operating costs that are likely to be passed on to consumers through higher prices. Retaining the current zero-rated treatment would support digital inclusion, promote investment in clean transport technologies, preserve the intended VAT policy objectives, and avoid increasing the cost of essential goods and services.

Committee Observation

The Committee acknowledged the concerns raised by RSM and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of those items.

Clause 31 (b) (i)

1316. Delete this proposal in its entirety or retain the VAT exemption for money transfer, payment processing, settlement, merchant acquiring, gateway, and aggregation services provided by payment service providers. Subjecting these essential financial services to VAT would increase transaction costs for consumers and businesses, disproportionately affecting low-income earners and small enterprises

while discouraging the use of formal financial systems and digital payment channels. Retaining the current VAT exemption would promote financial inclusion, support the digital economy, reduce the cost of doing business, and preserve affordable access to financial services.

Committee Observation

The Committee acknowledged the concerns raised by RSM and therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(i)

1317. Delete this proposal in its entirety. The proposed excise duty on imported and locally produced cellular phones would significantly increase the cost of mobile devices, with the additional tax burden ultimately being passed on to consumers. Higher prices would reduce access to essential digital tools, suppress consumer demand, and adversely affect businesses in the telecommunications and electronics sector. The proposal would also undermine Kenya's digital inclusion, financial inclusion, and digital economy objectives by making mobile phones less affordable for the majority of Kenyans.

Committee Observation

The Committee agreed with the concerns raised by RSM and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 42

1318. Delete the proposal for the Tax Procedures Act provides the Commissioner with powers to issue default assessments under Section 29 and additional assessments under Section 31 based on any information available. While the proposal seeks to provide the specific sources of information that the Commissioner can rely on to issue an assessment, the introduction of Section 29A is not clear as to what type of assessment would be governed by this Section.

Committee Observation

The Committee acknowledged RSM concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1319. Delete this proposal in its entirety. Removing paragraph (e) would allow the Commissioner to initiate tax recovery measures before a taxpayer has exhausted the appeal process, undermining the constitutional rights to fair administrative action and access to justice. Premature enforcement could disrupt business operations, strain cash flows, and cause irreparable financial and reputational harm even where the taxpayer ultimately succeeds on appeal. Retaining the provision safeguards procedural fairness, protects taxpayers from arbitrary enforcement, and upholds constitutional principles.

Committee Observation

The Committee considered the concerns raised by RSM and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 52

1320. Delete this proposal; this provision was just introduced vide the Tax Procedures (Amendment) Act, 2024, which came into force on 27th December 2024. We note that the Finance Bill 2025 proposed to delete; however, the amendment was not passed into law. Deleting this provision now would create uncertainty and unpredictability in tax laws, which not only goes against the canons of taxation, but also the National Tax Policy**.**

Committee Observation

The Committee acknowledged the concerns raised by RSM but noted that, consistent with previous responses to similar proposals, the repeal and replacement of Section 86 is intended to establish a more robust penalty framework for non-compliance with electronic tax systems (eTIMS). The Committee further observed that the stronger penalty regime is necessary to enhance compliance and support effective implementation of electronic tax administration systems.

New Proposal – Tax Procedures Act
Section 29(1)

1321. Amend the Tax procedures Act Section 1 and insert a new subsection 1A as follows: —

(1) Where a taxpayer has failed to submit a tax return for a reporting period in accordance with the provisions of a tax law, the Commissioner may, in accordance with the information obtained in Subsection (1A), issue an assessment on the income of a person as he may deem necessary (referred to as a "default assessment") of —

(a)the amount of the deficit in the case of a deficit carried forward under the Income Tax Act (Cap. 470) for the period;

(b)the amount of the excess in the case of an excess of input tax carried forward under the Value Added Tax Act (Cap. 476), for the period; or

(c)the tax (including a nil amount) payable by the taxpayer for the period in any other case.

1A The Commissioner shall rely on:

(a) the information submitted to the Commissioner under section 35(5):

(b) the accounting of tax deducted under section 37(1); Cap. 469. Cap. 4698.

(c) the information submitted to the Commissioner under section 5A of the Kenya Revenue Authority Act;

(d) the information submitted to the electronic system established under section 23A of the Tax Procedures Act;

(e) the information submitted to the Commissioner under Section 24A;

(f) the information obtained from the inspection of goods and records conducted under section 58;

(g) the information obtained from the auditing of the records produced under section 59;

(h) the information submitted to the data management and reporting system established under section 59A; or

(i) the information submitted to the Commissioner under written law, to issue an assessment under subsection (1)

Committee Observation

The Committee acknowledged the proposal by RSM noting that it enhances transparency and legal certainty by clearly specifying the sources of information that may be relied upon by the Commissioner. The Committee therefore accepted the proposal and recommended the amendment of Section 29 in the Act

Section 31

1322. The stakeholder proposed an amendment to Section 31 of the TPA by inserting a new subsection 1A to define the sources of information that the Commissioner can rely on as below:

1A The Commissioner shall rely on:

(a) the information submitted to the Commissioner under section 35(5):
(b) the accounting of tax deducted under section 37(1); Cap. 469. Cap. 4698.
(c) the information submitted to the Commissioner under section 5A of the Kenya Revenue Authority Act;
(d) the information submitted to the electronic system established under section 23A of the Tax Procedures Act;
(e) the information submitted to the Commissioner under Section 24A;
(f) the information obtained from the inspection of goods and records conducted under section 58;
(g) the information obtained from the auditing of the records produced under section 59;
(h) the information submitted to the data management and reporting system established under section 59A; or
(i) the information submitted to the Commissioner under written law, to issue an assessment under subsection (1)

1323. This amendment would enhance transparency and legal certainty by clearly specifying the sources of information that may be relied upon when issuing default or additional assessments. It would also promote objective tax administration, reduce reliance on subjective judgement, and ensure that taxpayers are assessed on the correct tax position based on verifiable information.

Committee Observation

The Committee acknowledged the proposal by RSM noting that it enhances transparency and legal certainty by clearly specifying the sources of information that may be relied upon by the Commissioner. The Committee therefore accepted the proposal and recommended the amendment of Section 31 in the Act

3.3.69 ELECTRIC MOBILITY ASSOCIATION OF KENYA (EMAK)

Clause 31(ix) - Paragraph 164

1324. Delete the clause and retain the supply of locally assembled electric motorcycle as Zero-Rated since assemblers and sellers will no longer be able to claim input VAT on the supply of the electric motorcycles and therefore would pass this cost on to the consumers, thus making electric motorcycles more expensive.

Committee Observation

The Committee acknowledged the concerns raised by EMAK and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of motorcycles. Therefore, the Committee emphasized that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (ix) - Paragraph 165

1325. Delete the clause and retain electric bicycles under zero-rating. The stakeholder submitted that this proposal would make electric bicycles more expensive, thus making them inaccessible and hindering their adoption and use in Kenya.

Committee Observation

The Committee acknowledged the concerns raised by EMAK and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of electric bicycles. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make

long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for electric bicycles as 8712.00.00. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (ix) – Paragraph 167

1326. Delete the clause and retain electric buses under zero-rating. According to the stakeholder, this would increase the overall prices of EVs and their maintenance, since VAT will be borne by the consumer.

Committee Observation

The Committee acknowledged the concerns raised by EMAK and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of Electric Buses. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

New Proposals

VAT Act, Second Schedule

1327. Amend the Second Schedule to the VAT Act by zero rating goods under Tariff description 8501.31.00. According to the stakeholder, incentives on EV components and spare parts are critical to ensuring their availability in the market, supporting the safe, reliable, and affordable operation of electric vehicles.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

VAT Act, Second Schedule

1328. Amend the Second Schedule to the VAT Act by zero-rating EVs of Tariff descriptions 8701 and 8704, including CKDs, sub-assemblies and components purchased by authorized assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

VAT Act, Second Schedule

1329. Amend the Second Schedule to the VAT Act by zero-rating EVs of Tariff descriptions 8703.40.00, 8703.50.00, 8703.60.00, 8703.70.00, and 8703.80.00, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

VAT Act, Second Schedule

1330. Amend the Second Schedule to the VAT Act by zero-rating EVs under Tariff description 8703, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers. This will ensure the development of the e-mobility sector in Kenya and to drive widespread adoption of EVs.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

Excise Duty Act, First Schedule

1331. Amend the first schedule of the Act to exclude EVs under Tariff description 8703 from Excise Duty, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

Excise Duty Act, First Schedule

1332. Amend the First Schedule to the Excise Duty Act to exclude EVs under Tariff descriptions 8703.40.00, 8703.50.00, 8703.60.00, 8703.70.00, and 8703.80.00 from Excise Duty, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

Excise Duty Act, First Schedule

1333. Amend the First Schedule to the Excise Duty Act by deleting EV buses of Tariff descriptions 8702.40.11, 8702.40.21, 8702.40.29, 8702.40.99, 8702.40.91 to exclude them from the purview of Excise Duty, including CKDs, sub-assemblies and components purchased by assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

Excise Duty Act, First Schedule

1334. Amend the First Schedule to the Excise Duty Act to exclude EVs under Tariff descriptions 8701 and 8704 from Excise Duty, including CKDs, sub-assemblies and components purchased by authorized assemblers and manufacturers.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

Excise Duty Act, First Schedule

1335. Amend the First Schedule to the EDA by excluding conversion motors under Tariff description 8501.31.00 from Excise Duty.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

Excise Duty Act, First Schedule

1336. Amend the Schedule to exclude conversion parts (controllers and others) under Tariff description 8506.50.00, 8501.32.00, 8504.40.00, 9032.89.00, 9104.00.00 for use in electric vehicles from Excise Duty.

Committee Observation

The Committee noted the proposal but did not agree with EMAK given the proposal has not been explored to determine its impact in the sector and revenue collection.

3.3.70 INSTITUTE OF CERTIFIED INVESTMENT AND FINANCIAL ANALYSTS (ICIFA)

Clause 31(b)(i)

1337. ICIFA recommends moderation of taxes affecting smartphones, digital payments, mobile financial services and fintech infrastructure. According to the stakeholder, digital platforms and mobile devices are now essential economic infrastructure supporting investment participation, SME operations, financial inclusion and digital commerce.

Committee Observation

The Committee acknowledged the concerns raised by ICIFA and therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 3 (b)

1338. Accept the proposal since it provides incentives for pension contributions. The stakeholder submitted that the Government should provide more incentives for domestic savings which will strengthen capital markets, support economic resilience and reduce the dependence on external borrowing.

Committee Observation

The Committee agreed with the ICIFA as the proposal introduces objective eligibility conditions for preferential tax treatment of gratuity arrangements to prevent their use for tax planning and revenue leakage. The Committee further observed that the three-year continuous service requirement, the thirty-one percent cap on basic salary, and the exclusion of persons already eligible for pension deductions provide clear safeguards to protect the tax base, while any implementation or administrative concerns can be addressed through guidance without weakening the proposed framework.

Clause 18 and 19

1339. Amend the proposal by introducing a phased implementation where enhanced taxpayer education and simplification of digital filing systems will be undertaken before shortening compliance timelines. ICIFA submitted that shortened filing periods may disproportionately affect SMEs, startups and businesses with limited compliance capacity.

Committee Observation

The Committee acknowledged ICIFA's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 16

1340. Delete the proposal as retained earnings are utilized for expansion, capital investment, research and development and job creation and should not attract punitive tax treatment. The stakeholder submitted that retained earnings are critical for SME growth, industrialization, innovation and capital formation.

Committee Observation

The Committee acknowledged the concerns raised by ICIFA and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns. In view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 38

1341. Amend the proposal by adopting a phased implementation of virtual asset taxation, establishing a regulatory sandbox and providing clear licensing and compliance guidelines. According to the stakeholder, this would promote innovation while ensuring investor protection.

Committee Observation

The Committee acknowledged ICIFA's concerns but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder's concerns.

NEW PROPOSAL

Income Tax Act

1342. Amend the Act to provide incentives for long-term investments, NSE listings, collective investment schemes, REITs and infrastructure bonds. ICIFA submitted that the introduction and expansion of these tax incentives will encourage participation in Kenya's capital markets.

Committee Observation

The Committee noted the proposal but did not agree with ICIFA given the proposal has not been explored to determine its impact in the sector and revenue collection.

Income Tax Act

1343. Amend the act by expanding incentives for green bonds, renewable energy investments, electric mobility, sustainable infrastructure and ESG-compliant investments. According to the stakeholder, this will ensure Kenya positions itself as a regional sustainable finance hub.

Committee Observation

The Committee noted the proposal but did not agree with ICIFA given the proposal has not been explored to determine its impact in the sector and revenue collection.

3.3.71 ASSOCIATION OF MICROFINANCE INSTITUTIONS- KENYA (AMFI)

Clause 2(b)

1344. Delete the proposal to amend section 2(1) of the ITA by expanding the existing definition of "management or professional fee" to include interchange fees and merchant service fees arising from transactions that use a card as a means of payment, thereby requiring that such fees attract WHT at the appropriate rate. Banks and merchants that absorb WHT costs on behalf of non-resident card companies (under gross-up arrangements) will face increased cost burdens, which will be passed on to

other consumers of financial services. This is contrary to government policy objectives of deepening financial inclusion and reducing the cost of financial services.

Committee Observation

The Committee noted the concerns raised by AMFI-Kenya but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

1345. Clause 2 further proposes to amend section 2(1) of the ITA by replacing the definition of "royalty" with a new, broader definition that retains existing categories (copyrights, patents, trademarks, software, film, etc. The broadened definition of royalties departs materially from the internationally recognised, rights- based approach to royalties as outlined in the OECD Model Tax Convention and the UN Model Tax Convention. Both instruments confine "royalties" to payments for the use of, or the right to use, intellectual property rights (such as copyrights, patents, and trademarks), and not access to commercially operated infrastructure networks.

Committee Observation

The Committee noted the concerns raised by AMFI-Kenya and in line with international best practices, recommended the deletion of the provision that proposes to define the distribution of software as an activity that generates royalties.

Clause 16

1346. Delete this proposed tax measure, while intended to improve discipline around distributions, could have unintended effects on microfinance institutions and digital credit providers. These entities operate in a tightly regulated environment and often need flexibility in how they manage and retain earnings to support their operations and growth. Deeming minimum distributions at the high threshold of 60% may constrain their ability to meet statutory and prudential requirements. Microfinance institutions often need to retain profits to maintain key regulatory thresholds, such as capital adequacy ratios. This is critical not only for compliance but also for sustaining confidence among depositors, lenders, and regulators.

1347. In addition, many of these institutions are subject to financing arrangements that impose covenants, including debt-to-equity ratio requirements. Retaining earnings plays a key role in ensuring compliance with such obligations. Limiting this flexibility could therefore affect their ability to access or maintain external funding. Adopting a more flexible and realistic threshold would strike a fair balance between addressing tax avoidance and allowing businesses to retain earnings for legitimate commercial requirements.

Committee Observation

The Committee acknowledged the concerns raised by AMFI-Kenya and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19 (a)

1348. Delete the proposal in its entirety. The proposal in the Bill to speed up tax reporting timelines, but implementing it now may create more challenges than benefits. The ongoing e-TIMS rollout has already stretched taxpayers, many of whom are still adjusting to the new system. This has made completing self-assessment returns more difficult and increased the risk of errors and non-compliance. Moving the filing deadline to the end of the fourth month would particularly affect companies with December year-ends, who form the bulk of taxpayers. They would face three key obligations almost at once: the first instalment for the new year (20 April), the balance of tax (30 April), and filing the annual return in the same window. This concentration of deadlines places pressure on both cash flow and administrative capacity, especially given gaps in system integration. Rolling out the change too early could disrupt operations, create bottlenecks, and weaken the intended reforms. It would be more practical to defer implementation until taxpayers are fully settled into the new systems and better prepared for shorter timelines.

Committee Observation

The Committee acknowledged AMFI-Kenya's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending

the clause to allow individuals four months and corporates six months to file returns.

Clause 23 (d)

1349. Delete the proposal proposing to delete subparagraph (d) in its entirety. The current Capital Gains Tax (CGT) framework under Paragraph 2 of the Eighth Schedule already provides comprehensive coverage of gains subject to tax. The existing framework is sufficiently broad to address the taxation of capital gains linked to Kenya and do not require further expansion. The proposal seems primarily aimed at removing or bypassing the 20% threshold embedded in the current law, rather than addressing a genuine legislative gap.

Committee Observation

The Committee acknowledged the concerns raised by AMFI-Kenya but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained.

Clause 44

1350. Delete the proposal proposing to amend Section 39A (2) to ensure that a withholding or deducting agent is not penalised for the principal tax where the tax has already been paid and accounted for by the recipient.

1351. Retaining subsection (2) is essential for the avoidance of double taxation. The current provision recognises that the primary objective of withholding and deduction mechanisms is to secure the collection of taxes, not to penalise agents where the tax has already been paid by the recipient. The deletion of this subsection would result in a situation where both the agent and the recipient could be held liable for the same principal tax, leading to double taxation. Maintaining this safeguard encourages voluntary compliance, reduces disputes, and upholds the principles of equity in tax administration.

Committee Observation

The Committee considered the concerns raised by AMFI-Kenya and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

1352. Delete the proposal in its entirety. The right to appeal an adverse decision is a fundamental component of the rule of law and the constitutional rights to fair administrative action and access to justice (Articles 47 and 48, Constitution of Kenya 2010). Permitting the Commissioner to enforce tax collection during the currency of a valid appeal renders the appeal process nugatory. A taxpayer deprived of assets mid-appeal is deprived of the practical means to prosecute the appeal, undermining the constitutional and statutory framework for dispute resolution. In addition, agency notices can result in the freezing or recovery of funds from a taxpayer's bank accounts. Where a taxpayer subsequently succeeds on appeal, the harm may be difficult or impossible to fulfil. remedy, particularly for businesses that may suffer reputational damage, loss of working capital, or insolvency as a result of the seizure of funds based on a disputed and unconfirmed liability.

Committee Observation

The Committee considered the concerns raised by AMFI-Kenya and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 49

1353. Delete the proposal in its entirety for while harmonising the computation of statutory timelines with general legal practice by counting all calendar days may enhance administrative uniformity, it is imperative to acknowledge that the current exclusion of weekends and public holidays serves a substantive purpose; namely, affording taxpayers sufficient opportunity to prepare and submit objections or appeals, particularly in light of the inherent complexity of tax matters and the necessity for

internal review and consultation. Therefore, the deletion of the proposal from the Bill to safeguard taxpayers' procedural rights and ensure equitable access to remedies under the TPA.

Committee Observation

The Committee considered the concerns raised by AMFI-Kenya and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

New Proposal – Income Tax Act

Section 15(2)

1354. Amend sections 15(2)(a) by providing

> Provided that: *(i) in the case of a person carrying on a money-lending business, banks or financial institutions licensed under the Banking Act, microfinance institutions licensed under the Microfinance Act and non-deposit taking microfinance businesses as defined under the Microfinance Act, 2006, and digital credit providers licensed under the Central Bank of Kenya Act, a debt that has become bad in accordance with guidelines issued by the Commissioner shall include the principal, interest and any other amount relating to the debt.*

1355. The primary reason for the present drafting of Section 15(2)(a) is to ensure that taxpayers only claim bad debts arising from circumstances that bear to their income-earning activities. If the bad debt is an ordinary incident of the taxpayer's income-earning activities, then the debt would be in their revenue account. For example, a bad debt incurred by a money lending institution would generally be expected to be a revenue loss and would therefore be allowable for income tax purposes. In our considered view, bad debts incurred by money-lending businesses are a direct consequence of lending, which is their core business. Such bad debts should therefore be allowable, inclusive of the principal, fee, and interest elements.

Committee Observation

The Committee noted the proposal by AMFI-Kenya but was of the view that it needed further consultation and research on its impact.

New Proposal – VAT Act - First Schedule

1356. Amend Part I of the First Schedule to the VAT Act by inserting the following new paragraph 171 after paragraph 170 as follows:

(171) *'The sale, disposal or realisation of collateral, repossessed assets or secured property, where such sale, disposal or realisation arises from the enforcement of security in connection with a loan, credit facility or other exempt financial services.'*

1357. The sale of collateral by microfinance institutions is not an independent economic activity in and of itself; rather, it is a direct consequence of providing credit, which is already exempt from VAT. The main purpose of selling collateral is to manage credit risk as per the Central Bank of Kenya Prudential Guidelines and recover outstanding loan balances. Treating this sale as a separate taxable supply would undermine the VAT principle that any ancillary or incidental activities should follow the VAT treatment of the principal supply.

1358. International VAT principles also recognize that when a transaction is ancillary to an exempt financial service, it should receive the same VAT treatment. In this case, the enforcement of security and disposal of collateral are inseparable from the original provision of credit. Microfinance institutions do not take ownership of collateral with the intention of reselling it; they only acquire it when a borrower defaults on a loan. If the sale of repossessed assets is made subject to VAT, it effectively treats microfinance institutions as if they are in the business of trading goods, which does not reflect their actual role or regulatory responsibilities.

Committee Observation

The Committee agreed with the proposal by the stakeholder.

New Proposal – ITA - Fourth Schedule

1359. Amend the Fourth Schedule to the ITA to recognize microfinance institutions and digital credit providers as "financial institutions" for income tax purposes. The proposed section should read as follows:

"A financial institution licensed under the Microfinance Act (Cap. 493C)" "A digital credit provider *licensed under the Central Bank of Kenya Act (Cap. 491)"*

Committee Observation

The Committee noted the proposal by AMFI-Kenya but observed that the National Treasury and other regulators would require time to assess the impact of its implementation.

New Proposal – ITA - Section 15(3)(b)

1360. The stakeholder proposed that section 15(3)(b) of the ITA be amended to include Microfinance Institutions and digital credit providers as lenders from which borrowers

can obtain mortgage interest relief by deleting the phrase "*one of the first six*" appearing before "*borrowed by him from*" and replacing this with *"all".*

Committee Observation

The Committee noted the proposal by AMFI-Kenya but observed that the National Treasury and other regulators would require time to assess the impact of its implementation.

New proposal

1361. Amend Paragraph 1, subparagraph (b) of Part II of the First Schedule to the VAT Act as follows:

(b) the issue, transfer, receipt, or any other dealing with money, Including money transfer services, accepting over the counter payments of household bills, and provision of digital financial services, including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money.

1362. The proposal would amount to taxing capital flow rather than final consumption. Conventionally, financial services are not subject to VAT because they are fundamentally intermediation services that facilitate the efficient flow of capital across the economy rather than constituting final consumption. Imposing VAT on these services undermines the core principle of VAT as a tax on final consumption by effectively taxing intermediate inputs, leading to cascading costs.

1363. Further, imposing VAT on financial services provided by PSPs while exempting similar services when provided by other players (other than PSPs) gives undue advantage to other players and is likely to drive PSPs out of business because their services will be uncompetitive. Lost business to PSPs will have a ripple negative effect on other macroeconomic factors, such as loss of employment opportunities and reduced tax revenue.

Committee Observation

The Committee noted the proposal by AMFI-Kenya but observed that the National Treasury and other regulators would require time to assess the impact of its implementation.

1364. Amend Section 23A (4) of the TPA by inserting the words: *"other fees charged by financial institutions and digital credit providers, accruals, forex exchange losses*," immediately before "payments subject to withholding tax that is a final tax".

1365. A phased rollout of eTIMS would ease the compliance burden, especially for SMEs that may lack the systems to comply immediately. This aligns with global practice,

where countries like South Africa, India, and Brazil introduced e-invoicing gradually, starting with large taxpayers and expanding over time.

Committee Observation
The Committee noted the proposal by AMFI-Kenya but observed that the National Treasury and other regulators would require time to assess the impact of its implementation.

1366. Further, amend Section 23A by inserting a new subsection immediately after sub-section 5 6) The Commissioner may, by notice in the Gazette, prescribe a phased implementation schedule for the requirement to issue electronic tax invoices under this section, having regard to the nature of the business, annual turnover, sector, or such other criteria as may be deemed appropriate to facilitate compliance and effective administration. This aims at addressing a gap in the current framework, where such fees are exempt in the Regulations but not in the TPA. Seeing as Section 23A does not envisage the expansion of excluded transactions via regulations, the proposal will help guarantee the exclusion of such fees from eTIMS requirements. Exempting accruals from eTIMS would align with IFRS, which requires accounting on an accrual basis. Disallowing such costs risks shifting to a cash basis and excluding legitimate expenses. The same approach should apply to other non-invoice items like FX losses, impairments, and provisions, which arise without supplier invoices but reflect genuine business costs.

Committee Observation
The Committee noted the proposal by AMFI-Kenya but observed that the National Treasury and other regulators would require time to assess the impact of its implementation.

1367. Amend Section 15(4) of the ITA to extend the tax loss carry-forward period to ten years and to provide a transitional clause for the implementation of the 10-year limitation. The revised provision should read:

'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 ten years of income. Provided that any deficit incurred by a person as at 1st July 2025 shall be deemed to have been incurred in that year of income.'

1368. In the context of microfinance institutions and digital credit providers, particularly new and start-up entities, a five-year limit on the utilisation of tax losses may be too restrictive. Many of these institutions take longer than five years to reach profitability due to the nature of their operations and initial capital outlays. Limiting the carry-

forward period in this way would therefore be inequitable and could hinder the growth of the sector, despite its important role in promoting financial inclusion among underserved populations.

1369. To safeguard businesses that incur genuine tax losses and require a longer period to utilise them, the government should consider extending the carry-forward period to 10 years. In addition, introducing a transitional clause would ensure that tax losses arising before the effective date are preserved. Without such a provision, there is a risk that the rule could apply retrospectively, effectively extinguishing existing losses and undermining legal certainty and the principle of non- retrospectivity. The inclusion of a transitional clause would also be in line with the non-retrospectivity principle, in that historical tax losses should not be impacted by a change enacted in 2025.

Committee Observation

The Committee noted the proposal by AMFI-Kenya but noted that the National Treasury and other regulators would require time to assess the impact of its implementation.

New proposal – ITA

Section 35(5)

1370. Amend Section 35(5) as follows:

Where a person deducts tax under this section, he shall, on or before the 5th day of the month following the month in which the deduction was made:

a) remit the amount so deducted to the Commissioner together with a return in the form prescribed by the Commissioner showing the amount of the payment, the amount of tax deducted, and such other information as the Commissioner may specify; and

b) furnish the person to whom the payment is made with a certificate stating the amount of the payment and the amount of the tax deducted.

1371. Remitting WHT within five days of payments imposes a heavier administrative workload on businesses, which must now engage in more frequent bookkeeping, reconciliation, and compliance activities. The increased volume of filings also raises operational costs related to tax administration, including the need for additional staff time and accounting resources. In addition, most business transactions operate on credit terms of at least 30 days, meaning that payments from customers are typically received after services are delivered. The current 5-day WHT payment cycle creates a mismatch because tax payments are due before businesses have collected revenue from their customers in readiness to pay their service providers. This forces businesses to pay taxes on income not yet realized and qualifying expenses that are not yet due for payments, exacerbating cash flow challenges. Aligning WHT payments with the standard monthly credit cycle would facilitate smoother financial planning and reduce liquidity pressures.

1372. Further, frequent WHT payments require taxpayers to remit WHT multiple times within a month, including daily remittance for banks whose clients accrue income such as interest daily. This reduces their liquidity and ties up funds that could otherwise be used for business operations. This frequent outflow of cash complicates working capital management, leaving businesses with less flexibility to allocate resources toward operational needs or investments. Small and medium enterprises (SMEs) may experience cash flow mismatches due to limited financial buffers, making it difficult to sustain smooth operations under the current 5-day payment cycle.

Committee Observation

The Committee noted the proposal by AMFI-Kenya but observed that the National Treasury and other regulators would require time to assess the impact of its implementation.

1373. Amend the Third Schedule to the ITA is amended by revising the tax bands as follows:

i. Expand the tax bands so that lower-income earners are cushioned from high rates of tax.
ii. Introduce additional rates for better progression.
iii. Cap the maximum tax rate for PAYE to 30%.

The individual rates of tax would be as follows:

Monthly

Income (KES)

i. On the first KES 30,000 at 10%
ii. On the next KES 30,000 at 15%
iii. On the next KES 30,000 at 20%
iv. On the next KES 410,000 at 25%
v. On income over KES 500,000 at 30%

1374. Broader tax base – expanded income tax bands and lower rates will encourage more Kenyans, especially the lower cadre, to be willing to pay tax, as the net take-home will not be significantly impacted, as is the situation currently. There is also an increased likelihood that individuals will be more willing to declare their other taxable incomes from part-time businesses established from the increased savings and investments. Indexing the tax rates to inflation – adjusting the PAYE bands is in consideration of instances where inflation pushes taxpayers into higher bands without real income growth. Canada and the United States of America have incorporated this in their policy. In Kenya, the real wage growth between 2020 and 2024 is deemed to have contracted by 12%, hence the urgent need to re-examine the tax bands.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

1375. Amend the amount of personal relief under Paragraph 1, Head A of the Third Schedule, to be increased to KES 3,000 per month.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the Individual personal relief. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

3.3.72 KELDINE

Clause 6

1376. Amend the proposal to provide that the tax charged under subsection (1) shall be payable not later than the 20th working day after the end of the month in which the income was realized. The requirement to pay within five days after the payment is received or the ship leaves the port of lading, whichever is earlier, may be insufficient time for taxpayers to accurately determine the tax payable, complete internal reviews, and process payments, while cross-border remittance procedures and banking delays could further hinder timely compliance, potentially leading to cash flow strain and increased administrative challenges for the taxpayers.

Committee Observation

The Committee acknowledged the concerns raised by the Keldine but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment

date does not inconvenience shipping lines, and the proposal was not supported.

Clause 16

1377. Delete the proposal in the Bill that empowers the Commissioner to deem at least 60% of a company's distributable income as dividends would increase the effective tax burden on businesses and negatively impact companies that rely on retained earnings to support working capital, reinvestment, expansion, and long-term growth. Retained earnings are a critical source of internal financing, especially for businesses operating in capital-intensive sectors and for SMEs seeking to strengthen their operations and remain competitive. The proposed provision may therefore discourage reinvestment, constrain business growth, and adversely affect cash flow management.

Committee Observation

The Committee acknowledged the concerns raised by Keldine and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clauses 18 &19

1378. Amend the proposal in the bill to provide that the statutory deadline for filing income tax returns is to be retained at six (6) months after the end of the year of income. Retaining the six-month filing period is essential to support accurate tax reporting, voluntary compliance, and efficient tax administration. Many taxpayers require adequate time to finalize audited financial statements, reconcile eTIMS records, withholding tax certificates, and other supporting documentation before filing returns. Reducing the timeline to four months would compress key compliance obligations, increasing the risk of filing errors, amended returns, penalties, and tax disputes. Maintaining the current six- month period would ease the compliance burden on taxpayers and practitioners while enhancing the accuracy, quality, and integrity of tax filings.

Committee Observation

The Committee acknowledged Keldine's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal

effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 2

1379. Reconsider removing the proposal to expand the definition of Management and professional fees for the proposed expansion of the definition of "management or professional fees" under the Income Tax Act to include interchange fees and merchant service fees arising from card-based transactions should be reconsidered. The interchange fees are operational settlement charges within the payment ecosystem and do not constitute management or consultancy services in the industry. The expansion will increase the cost of digital and cashless payments for businesses and customers. This will impose additional compliance burdens on banks and payment service providers. Therefore, subjecting such fees to WHT will negatively affect the growing digital economy and fintech sector by increasing transaction costs and reducing the affordability of electronic payment systems.

Committee Observation

The Committee noted the concerns raised by Keldine but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 22 (b) (i)

1380. Delete the proposal in the Bill for the proposed amendment to remove the preferential 5% withholding tax rate on dividends paid to the East African Community (EAC). The amendment departs from the EAC agreements of tax harmonization, which can discourage cross-border trade and investment. The amendment should be readjusted back to 5% to support economic cooperation within the EAC region.

Committee Observation

The Committee acknowledged the concerns raised by the Keldine but observed that the proposed amendment removes the preferential 5 percent withholding tax rate on dividends paid to East African citizens to promote equity in the tax system, reduce revenue leakage, and align tax

incentives with the National Tax Policy on the rationalization of tax expenditures.

Clause 27

1381. Delete the proposed Section 17A, which requires taxpayers to reverse input VAT previously claimed on unsold stock where the related supplies subsequently become exempt. The proposed provision may impose significant administrative and compliance burdens on taxpayers, particularly in tracking inventory and identifying unsold stock subject to input VAT reversal. This may be especially challenging for businesses with large inventories or complex supply chains. Further, the requirement to reverse input VAT previously claimed may create cash flow constraints, as taxpayers would be required to repay VAT that had been legitimately claimed at the time the goods were acquired, when the supplies were still taxable. Since the purchases would have been made at VAT-inclusive prices under the prevailing tax status at the time, the subsequent reversal may result in an unfair financial burden on taxpayers arising from a later legislative change in the VAT treatment of the supplies.

Committee Observation

The Committee acknowledges the concerns raised by Keldine but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 28

1382. Delete the proposed amendment to Section 31 and retain the current two-year waiting period for claiming VAT bad debt relief. Extending the waiting period for claiming bad debt relief from two years to three years may result in significant cash flow constraints for businesses, particularly in sectors that operate on credit terms. In most cases, by the lapse of two years, it is reasonably evident that the debt is irrecoverable and that recovery efforts have been exhausted.

1383. Further, the existing provisions under Section 31(2) of the Value Added Tax Act (Kenya) already require taxpayers to account for and repay the refunded VAT where

the bad debt is subsequently recovered. This provision sufficiently safeguards against abuse of the relief mechanism, making the extension to three years unnecessary.

Committee Observation

The Committee acknowledges the concerns raised by Keldine but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 29

1384. Amend the proposed amendment to provide transitional or simplified compliance measures for MSMEs that may not yet have the infrastructure or systems required to issue tax invoices. Further, the Bill should expressly clarify that persons who are not VAT registered should not charge or indicate VAT on the invoices issued**.** The proposed expansion of the tax invoice issuance requirement may impose significant compliance challenges on MSMEs, many of which may not yet have the technological capacity or systems necessary to generate compliant tax invoices. This may result in increased compliance costs and administrative burdens for small businesses operating outside the formal VAT framework.

1385. Further, tax invoices indicating VAT should only be issued by VAT-registered persons under the Value Added Tax Act. Failure to expressly distinguish between VAT- registered and non-VAT-registered persons may create confusion in the market and increase the risk of unauthorized charging or collection of VAT by unregistered businesses.

Committee Observation

The Committee considered the concerns raised by Keldine and agreed that extending the eTIMS invoicing requirement to all persons would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee

therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 31

1386. Retain the zero-rated status for:

i. Inputs or raw materials locally purchased or imported for the manufacture of animal feeds, upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to agriculture

ii. Inputs or raw materials locally purchased or imported for the manufacture of pharmaceutical products upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to health

iii. Transportation of sugarcane from farms to milling factories

iv. The supply of imported or locally purchased telephones for cellular networks and other wireless networks

v. The supply of motorcycles of tariff heading 8711.60.00**.**

vi. The supply of electric bicycles

Committee Observation

The Committee acknowledged the concerns raised by the Keldine and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 42

1387. Amend the proposal to provide taxpayers with an opportunity and procedure to review and correct inaccurate third-party information relied upon by the Commissioner before an assessment is issued. Since the proposed addition of section 29A permits the commissioner to issue assessments based on information obtained from electronic systems, audits, inspections, and third-party reporting platforms, there is a risk that such information may contain discrepancies. Providing taxpayers with an opportunity to review and rectify such data before an assessment would provide fairness, transparency, and accuracy in tax administration. This would also align with Article 47 of the Kenyan Constitution that requires lawful, reasonable, and fair administrative procedures. Without a correction mechanism, taxpayers may be subjected to unjustified assessments, penalties, and disputes, leading to increased objections and litigation.

Committee Observation

The Committee acknowledged Keldine's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing

assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 43

1388. Amend the proposal to extend the amnesty principal settlement period to June 2027 as opposed to Dec 2026. An extension to June 2027 would likely enhance uptake of the amnesty programme by encouraging more taxpayers to voluntarily come forward and settle outstanding principal taxes without the immediate pressure of a shorter compliance time window, as many taxpayers continue to face cashflow challenges, which may limit their ability to fully settle principal taxes by December 2026.

Committee Observation

The committee noted that the waivers and timelines provided in the Bill are sufficient. Further, tax amnesty is contemplated to be a temporary measure while striving to retain the overall goal of tax payment compliance.

Clause 44

1389. Delete the proposal to prevent double taxation and ensure administrative fairness in tax enforcement. Retaining Section 39A (2) ensures that the same income is not subjected to tax twice: once from the recipient and again from the withholding agent. The provision recognizes that tax liability should attach to the income only once. Where the substantive tax has been paid by the income recipient, it would be inequitable to impose the same principal tax on the payer purely due to procedural failure.

Committee Observation

The Committee considered the concerns raised by Keldine and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

1390. Delete the proposal in the Bill to ensure KRA does not issue agency notices or commence tax recovery proceedings where a taxpayer has already lodged an appeal before the Tribunal or Court. Retaining section 42(14)(e) is necessary to safeguard taxpayers' right to fair dispute resolution and prevent premature enforcement action by KRA before tax disputes are conclusively determined. Issuing notices during ongoing disputes may result in the freezing of bank accounts, cash flow constraints, and, eventually, disruption of business operations.

Committee Observation

The Committee considered the concerns raised by Keldine and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 47

1391. Delete the proposal to allow taxpayers to continue to offset their available tax credits against VAT payable, including VAT payable on imports. Removing section 47(1) may create cashflow constraints for taxpayers, particularly importers and manufacturers who regularly accumulate excess VAT credits in the course of their business operation. Where taxpayers are unable to offset available credits against import VAT liabilities, they may be compelled to make additional payments to KRA despite already holding refundable or unutilized tax credits within the system.

1392. The proposed amendment may significantly affect businesses in sectors with significant zero-rated supplies where excess VAT credits are common. Retaining the current provision would help ease administrative processes associated with refund claim applications, minimize the build-up of outstanding VAT refunds, and enhance taxpayer cashflow management. Additionally, allowing offsetting ensures taxpayers are not subjected to unnecessary cash outflows where credits already exist within the tax system.

Committee Observation

The Committee considered the concerns raised by Keldine and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax

credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 51

1393. Amend the proposal in the Bill to allow for the Commissioner to waive all penalties or interest arising from an error or malfunction of an electronic tax system irrespective of the amount involved. The KES 2 million threshold may unfairly disadvantage taxpayers with large or complex operations, whose exposure to system-generated penalties or interest may naturally exceed this amount due to the scale of their transactions rather than taxpayer fault. Electronic tax system failures or errors are outside the taxpayer's control, and taxpayers should not be penalized for liabilities arising solely from malfunctions or inaccuracies of systems administered by KRA or integrated tax platforms. Removing the cap would enhance fairness, certainty, and confidence in tax administration by ensuring that all taxpayers are protected from unjust penalties and interest.

Committee Observation

The Committee acknowledged the concerns raised by Keldine but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

New Proposals

1394. Amend Section 47 to expressly provide that where an audit or verification is conducted, the 180-day refund processing period shall commence from the date the audit or verification is formally initiated by the Commissioner. The current provision does not expressly state when the 180-day period begins when an audit is conducted. The 180-day timeline is thus applied inconsistently, with delays arising where audits are prolonged, creating uncertainty on when the period starts and resulting in extended refund processing timelines. Clarifying the commencement of the 180 days will promote administrative accountability, timely refund decisions, and prevent open-ended delays not contemplated by the law. It will discipline the KRA to provide timely decisions, upholding the taxpayer's rights. This will also improve predictability of VAT refunds, enhance taxpayer confidence, and improved cash flow for compliant taxpayers.

Committee Observation

The Committee noted the proposal by Keldine but was of the view that it needs further consultation and research.

New Proposal – VAT Act
Second Schedule

1395. Amend the second Schedule of VAT paragraph 36 to exclude the requirement for Cabinet Secretary recommendation for tea and coffee packaging materials. The approval-based zero-rating creates administrative bottlenecks, uncertainty, and inconsistent application. Suppliers and manufacturers incur VAT costs or delays while awaiting approvals, defeating the objective of supporting agricultural value chains.

1396. Tea and coffee are strategic export commodities. Conditioning zero-rating on administrative approvals introduces compliance risk and delays, increases production costs, and discourages local manufacturing. Automatic zero-rating would better support agriculture, exports, and ease of doing business**.**

Committee Observation
The Committee noted the proposal by Keldine but was of the view that it needs further consultation and research.

New Proposal – Tax Procedures Act

1397. Amend the TPA to provide for the establishment of a specialized tax court under the Judiciary or the imposition of a requirement that judges handling tax disputes must have reputable experience in matters of taxation. Law currently provides for channels for tax dispute resolution as an Objection to the Commissioner, an appeal to the Tax Appeals Tribunal, an appeal to the High Court, and an appeal to the Court of Appeal. In most cases, tax issues are numerous, specialized, complex, dynamic, and constantly changing. As such, they require a degree of specialization to enable the judges to understand the matter before them and issue a fair judgment.

1398. Establishment of a specialized tax court will ensure that tax matters are given the specialized attention they require. It will also reduce the amount of time taken to decide these matters. However, in the event the courts decide to retain the commercial and tax division for matters tax, it should be ensured that the judges handling tax matters are well versed with the current tax regime and tax laws.

Committee Observation
The Committee noted the proposal by Keldine but was of the view that it needs further consultation and research.

Clause 39

1399. The stakeholder proposed that Clause 39 be amended so that the proposed new subsection (9) and (10) read as follows:-

(9) Where a person who was deregistered under this section qualifies for reregistration under section 8, the person shall apply to the Commissioner for reinstatement of the registration.

(10) Where the Commissioner is satisfied that the applicant under subsection (9) is liable for tax under a tax law, the Commissioner shall register the person and issue the same PIN that had been issued to the person prior to the deregistration.

1400. The stakeholder submitted that Section 10 be amended to clearly provide for the timeline within which the Commissioner shall process the re-registration application. In the absence of prescribed timelines, taxpayers may experience prolonged delays in the reinstatement of their PINs and update of tax status, which may disrupt businesses. Additionally, undefined processing periods may create administrative uncertainties due to hesitation in decision-making. Providing defined timelines will improve accountability within KRA, facilitate faster return of taxpayers into the formal tax system as well as reduce unnecessary disputes and follow-up engagements.

Committee Observation

The Committee noted the proposal by Keldine but was of the view that it needs further consultation and research.

Clause 41

1401. Amend Section 18A to provide a clear definition of what constitutes a tax avoidance arrangement to distinguish unlawful avoidance from legitimate tax planning. The current broad framing of the term tax avoidance scheme may lead to uncertainty and differing interpretations in practice. Introducing clearer guidance would enhance legal certainty, promote more consistent application of the provision, reduce avoidable disputes, and still enable the tax authority to effectively address improper use of tax avoidance provisions.

Committee Observation

The Committee acknowledged Keldine's concerns and recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

3.3.73 KENYA TOBACCO CONTROL AND HEALTH PROMOTION ALLIANCE (KETCA)

New proposal

1402. Amend the Bill to increase excise duty on cigarettes, oral nicotine pouches, liquid nicotine for e-cigarettes, and electronic cigarettes by approximately 20%, and reinstate automatic annual inflation adjustments on tobacco and nicotine excise taxes. They noted that although the Finance Bill increases excise duty on cigars, cheroots, cigarillos,

and other manufactured tobacco products, it does not increase taxes on cigarettes, nicotine pouches, and e-cigarettes, which are the most widely used tobacco and nicotine products, particularly among young people and low-income consumers. They contend that higher taxes would reduce consumption, prevent tobacco-related diseases and deaths, discourage youth uptake, and at the same time increase government revenue available for healthcare and other public services.

Product	Current Rate	Finance Bill 2026	What KETCA Wants
Cigarettes (plain and filtered)	KES 4,100 per mille	No change	KES 4,920 per mille
Oral nicotine pouches	KES 2,000 per kg	No change	KES 2,400 per kg
Liquid nicotine for e-cigarettes	KES 100 per ml	No change	KES 120 per ml
E-cigarettes and delivery devices	40% of retail price	No change	60% of retail price
Cigars, cheroots and cigarillos	KES 16,260.29 per kg	KES 18,000 per kg	Support Bill proposal
Other manufactured tobacco	KES 11,382.48 per kg	KES 12,550 per kg	Support Bill proposal

Committee Observation

The Committee acknowledged the concerns raised by the KETCA noting their impact on the health of youth and all citizens in Kenya. However, the Committee noted that proposals would require time to assess the impact of the proposals submitted on the sector and revenue mobilization.

3.3.74 KBL AND UDV

New Proposals – Income Tax Act

Section 35(5)

1403. Amend section 35 of the Income Tax Act to extend the remittance period of withholding VAT tax to extend the remittance period VAT tax to the 5th of the following month from the current 5 days after the deduction was made, to read as follows:

Section 35(5) "where a person deducts tax under this section, the person shall remit the amount so deducted to the commissioner by the 5th of the following month'

1404. The shorter time period within which to remit WHT/WHVAT is insufficient for proper computation of tax remittances. This creates a WHT refund reconciliation problem for both the taxpayers/buyer and the agency/vendors, which is difficult to resolve.

Committee Observation

The Committee noted the proposal by KBL and UDV but observed that the National Treasury and other regulators would require time to assess the impact of its implementation.

New Proposal – ITA

Third Schedule – Head B Paragraph 1

1405. Delete paragraph 1 under Head B rates of the tax and substitute therefor the following new paragraph—

Monthly PAYE Tax Bands

i. On the first Ksh. 30,000 at 10%
ii. On the next KSh. 8,333 at 20%
iii. On the next 461,667 at 25%
iv. On the next 300,000 at 27%
v. On the amounts over KSh. 800,000 at 30%

Committee Observation
The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

Clause 36(a)(v)

1406. Delete the proposal on the excise Act to limit Neutral Alcohol to licensed manufacturers for the Extra Alcohol is now a material used in the manufacture of Alcohol. It is a highly purified, neutral ethyl alcohol with at least 96% content.

Committee Observation
The Committee acknowledged the concerns raised by KBL and UDV but noted that, although the proposed amendment was intended to clarify that extra neutral alcohol used in the manufacture of spirituous beverages qualifies for the special excise duty rate whether imported or locally purchased, the current drafting inadvertently deletes the reference to licensed manufacturers of spirituous beverages, who are the intended

beneficiaries. The Committee was therefore of the view that the provision should be deleted from the Bill to avoid ambiguity, as the intended clarification can be addressed administratively.

Clause 36(a)(xiii) to (xxxiii)

1407. Amend the Clause proposing to delete the proviso excluding EAC from the provisions. For subjecting excise duty on goods imported from EAC partners states contravenes the provisions of the East Africa Community Customs Union framework and Rules of the origin regime and potentially objectives of faciliting free movement of qualifying goods within the EAC.

Committee Observation

The Committee acknowledged the concerns raised by KBL and UDV. However, the Committee recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 36 (a)(xiii)

1408. Amend paragraph 1 of part 1 of the First Schedule to the Excise Duty Act, 2015 on imported glass bottles as follows:

1409. Replace the current rate of excise duty from 35% to 25% to read as follows: 'Imported Glass bottles 25% or forty shillings per kg, whichever is higher 9excluding imported glass bottles for packaging of pharmaceutical products.

Committee Observation

The Committee noted the proposal by KBL and UDV but observed that the proposal would require further consultation and research on its impact on revenue.

Clause 45

1410. Delete the clause which seeks to empower the Commissioner to issue and enforce agency notices and by extension unfairly proceed with tax collections notwithstanding ongoing tax disputes and appeals.

Committee Observation

The Committee considered the concerns raised by KBL and UDV and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative

action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with KBL and UDV and recommended deletion of the proposal.

New Proposals – Excise Duty Act
Section 14(1)

1411. Amend the Excise Act section 14(1) to introduce the new word 'or on input' as part of the offset relief that is provided under section 14 of the Excise Act to manufacturers by amending the section as follows:

Where excise duty has been paid in respect of excisable goods imported into, or manufactured in Kenya by a licensed manufacturer, and which have been used as raw materials or an input' in the manufacture of other excisable goods (hereinafter referred to as 'finished goods') the excise duty paid on the raw material shall be offset against the duty payable on the finished goods.

Committee Observation
The Committee noted the proposal by KBL and UDV but observed that the proposal requires further consultation and research on its impact.

New Proposal – Excise Duty Act
Section 12

1412. Amend the Excise Duty Act to provide new Section 12(6) as follows: -

The Commissioner may determine and specify the allowance for transit losses that may be granted, and the conditions under which it is granted.

The stakeholder submitted that Kenya has provisions on transit for the petroleum-based products when on sea and also on land. However, prior to 2015, the Customs and Excise tax law in Kenya used to provide for 1% spirits process and transit loss allowance on excise duty, being an alcohol based. Ethanol is now a raw material used in the production of alcohol. Its composition is similar to petroleum, which is made up of carbon, which makes it prone to evaporation.

Committee Observation
The Committee noted the proposal by KBL and UDV but noted that introducing statutory allowances for ethanol transit and storage losses would create significant compliance and enforcement risks in a sector that is highly susceptible to diversion, under-declaration, and excise revenue leakage. While minor volumetric variations may arise from temperature fluctuations and handling, substantial losses are largely attributable to operational inefficiencies, leakage, venting, or inadequate storage and

transportation systems, which should be addressed through improved industry practices rather than compensated through tax policy. Granting statutory loss allowances would weaken accountability, create opportunities for abuse, and undermine the integrity of the excise duty regime by effectively transferring the cost of avoidable commercial losses to the Exchequer.

New Proposal - Excise Duty Act - Section 36

1413. Introduce a new section 36(1)(B) as follows:

Where the commissioner under paragraph (1) directs ascertainment by weighing, the volume shall be calculated-

(a) By use of a mass flow meter at twenty degrees centigrade with an accuracy of +/-30 of the measured volume in litres

1414. The stakeholder submitted that the process of measuring the volume of spirits sold by distillers or received by manufacturers of spirits has changed due to the introduction of mass flow meters, which are approved by weights and measures for custody transfer applications. Temperature has an effect on ethanol volume readings. When the readings are taken at warmer temperatures, the ethanol quantity is usually higher as opposed to colder temperatures. This lack of standardization normally results in significant losses.

Committee Observation

The Committee noted the proposal by KBL and UDV but observed that the proposal would require further research and consultation to assess the impact of its implementation.

New Proposal - Excise Duty Act
Section 28

1415. Amend section 28 to introduce a new section 28(2A) to provide for the use of digital or electronic systems instead of excise or electronic systems instead of excise stamps as follows:

Notwithstanding subsection (2), the Commissioner shall, any person shall notify the Commissioner on the use of digital stamps to be printed on each package and in a visible place with indelible security ink to enable the authentication of, and production accounting for, excisable goods, in accordance with prescribed regulations'

1416. The stakeholder submitted that Kenya's digitalization policy, anchored in the Digital Economy blueprint (2019) and National Digital Master Plan 2022-2023, aims to transform the country into a regional ICT hub by focusing on digital government Services, where the Government aims to digitalise all government services to improve

efficiency, transparency, and inclusion, managed through the Ministry of ICT and the digital economy.

Committee Observation

The Committee noted the proposal by KBL and UDV but observed that the proposal would require further research and consultation to assess its impact.

1417. Amend section 17 of the VAT to allow full deduction of the VAT input for all purchases used to generate income where 90% of the sales are standard-rated. The Tax Laws Amendment Act, 2024, repealed Section 17(7) that provided an allowance for taxpayers to claim full input VAT as long as 90% of sales were standard rated. The current 100% restriction of input VAT on sales relating to exempt is unfavourable to manufacturers who sell finished products to exempt government entities such as the Kenya Defence Forces, the Police, among others. The additional VAT burden/loss arising must be absorbed by business, thus reducing revenue and making sales made to exempt customers uncompetitive.

Committee Observation

The Committee noted the proposal by KBL and UDV but observed that the proposal would require further research and consultation to assess its impact.

1418. Amend the proviso under Section 17(2) of the Value Added Tax Act to increase the period for claiming input tax to 12 months from the current 6 months, as follows:

"Provided that the input tax shall be allowable for deduction within allowable for a deduction within twelve months after the end of the tax period in which the supply or importation occurred."

1419. With the onset of auto-populated VAT returns, which include e-invoicing, the iTax system is experiencing errors, leading to increased time delays, leading and which results to business issues being time-barred to make applications for input tax deductions. This situation has led to an increase in unclaimed VAT, arising due to it being a new system. Further, for most of the cases, the Tax Authority takes too long to resolve the iTax system gaps, leading to legitimate invoices declared by vendors missing from the auto-populated VAT return, becoming time- barred. Smaller-scale businesses that are unable to fix auto-population issues are blacklisted from getting further, as this risks SMEs' growth, contrary to the provisions of the Government's Bottom-Up Economic Agenda.

Committee Observation

The Committee noted the proposal by KBL and UDV but observed that the proposal would require further research and consultation to assess its impact.

New Proposal – Value Added Tax
Section 17(6)

1420. Amend section 17(6) of the VAT Act to allow full deduction of VAT for all purchases used to generate income where 90% of the sales are standard-rated. The Tax Laws Amendment Act, 2024, repealed section 17(7) that provided an allowance for taxpayers to claim full input VAT as long as 90% of sales were standard rated. The current 100% restriction of input VAT on sales relating to exempt is unfavourable to Manufacturers who sell finished products to exempt government entities, such as the Kenya Defence Forces, the police, among others.

Committee Observation
The Committee noted the proposal by KBL and UDV but observed that the proposal would require further research and consultation to assess its impact.

New Proposal – Tax Procedures Act
Section 42A

1421. Amend section 42A(4B) of the Tax Procedures Act to extend the remittance of withholding VAT tax to the 5th of the following month from the current five days after the deduction was made, as follows;

1422. 'The tax withheld under this section shall be remitted to the Commissioner on the 5th of the following month after the deduction was made. The Finance Act 2023 reduced the timeline for remitting Tax or VAT(WHT) from the following month to within 5 working days. The short remittance deadline has impacted cash flow, leading to increased operating capital needs with a requirement to lend through bank overdrafts, and consequently, an additional business cost. For the smaller entities with no readily available capital, it could lead to business loss or closure. The requirement to account for WHT within 5 days has brought about a huge administrative burden for large-scale businesses.

Committee Observation
The Committee noted the proposal by ABAK and noted that extending the Withholding remittance deadline to the 5th day of the following month would fundamentally compromise real-time cash visibility for the Exchequer and break the synchronization loop with electronic invoice matching systems like eTIMS. The existing five-day statutory window under Section 42A(4B) of the Tax Procedures Act is critical for preventing input VAT fraud, as it allows the Kenya Revenue Authority to match

withheld transactions immediately against corresponding supplier invoices before tax credits are falsely claimed. As such, the proposal was not supported.

New Proposal – Sustainable Waste Management Act,2020
Section 13

1423. Amend section 13 of the Sustainable Waste Management Act, 2020, Cap 387C to introduce a new Section 12(3) A to read as follows:

"*Notwithstanding any provisions in the Regulations relating to extending producer responsibility, a producer registered in Kenya to carry out manufacturing or importing into Kenya shall be exempt from any import fees or levies, provided that they have proof of membership to an extended producer responsibility scheme and an extended producer responsibility certificate from the Authority.*"

1424. Section 13 of the Sustainable Waste Management Act recognizes Extended producer responsibility requirements, indicating that every producer (Manufacturer, importer and user) shall bear extended producer responsibility obligations to reduce pollution and environmental impacts of the products they introduce into the Kenyan Market and waste arising therefrom. That every producer shall fulfil their extended producer responsibility.

Committee Observation

The Committee acknowledged the proposal by the KBL. The Committee noted that the Sustainable Waste Management Act is not one of the Acts sought to be amended in the Bill, thus falling outside the scope of the subject matter of the Bill. Further, the Committee encouraged KBL to pursue the matter with the Departmental Committee on Environment, Forestry and Mining of the National Assembly or petition the National Assembly for the amendment.

3.3.75 EAST AFRICAN BREWERIES PLC (EABL)

Clause 6

1425. Delete the proposal requiring the remittance of Withholding VAT within five working days and retain the proposal to extend the remittance period to the 5th day of the following month. Stakeholders noted that while withholding VAT was introduced to enhance timely revenue collection and improve tax compliance, the current five-day remittance timeline does not provide sufficient time for accurate tax computation, reconciliation, and correction of invoices and withholding VAT certificates. They argued that the short timeline places significant pressure on business cash flows by tying up working capital, increasing reliance on overdrafts, and raising operational costs. Stakeholders further noted that the requirement creates a

substantial administrative burden due to frequent invoice corrections, reversals, and certificate cancellations, thereby increasing compliance costs and delays for both taxpayers and the tax authority. They therefore supported the extension of the remittance period, noting that it would improve the business environment, ease cashflow pressures, enhance investment and business growth, and strengthen tax administration by reducing disputes and reconciliation challenges while improving overall compliance.

Committee Observation

The Committee acknowledged the concerns raised by EABL but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, thus the proposal was not supported.

New proposal

1426. Stakeholders proposed a new amendment to the Bill to revise Kenya's PAYE structure under the Third Schedule by reducing the highest marginal income tax rate to 30% and applying a general 5% reduction across all income tax bands. The proposal introduces a restructured monthly PAYE schedule aimed at easing the tax burden on salaried individuals and improving take-home pay through a higher personal relief, effectively raising the tax-free threshold to KSh 30,000 per month.

1427. The proposed monthly PAYE bands are as follows:

i. 10% on the first KSh 30,000;
ii. 20% on the next KSh 8,333;
iii. 25% on the next KSh 461,667;
iv. 27.5% on the next KSh 300,000; and
v. 30% on income above KSh 800,000.

1428. The proposal would increase disposable income, stimulate household consumption, strengthen SME activity, support job creation, and improve access to credit through enhanced borrowing capacity. While it may reduce short-term tax revenues, stakeholders noted that the impact could be partly offset through higher consumption levels, increased indirect tax collections, and broader economic expansion driven by improved economic activity.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that

the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

Clause 36 (a) (xxxiv)

1429. EABL supported the proposal, as this adjustment is intended to reduce the cost burden of ENA, a key raw material in alcohol production, and enhance the competitiveness of Kenya's manufacturing sector within the East African Community (EAC), where comparable rates in Uganda and Tanzania are significantly lower. The reduction in excise duty is expected to strengthen industrial competitiveness by lowering input costs for local manufacturers and improving price competitiveness in regional markets. It is also expected to improve cash flow and liquidity across the value chain, reduce reliance on illicit and unregulated ethanol through a more competitive pricing environment, and strengthen compliance. Over time, the proposal is expected to broaden the tax base through improved compliance and reduced illicit trade, while also reducing counterfeit and substandard alcohol, improving public health outcomes, and enhancing Kenya's regional competitiveness by supporting investment, production growth, and export expansion.

Clause 36(a) (xiii), (xix), (**xxxi)**, (**xxxiii)**

1430. In support of the proposal, the amendment seeks to delete the First Schedule, Part I of the Excise Duty Act (Cap. 472) while maintaining the exclusion for imported glass bottles used for packaging pharmaceutical products, but effectively retaining the excise treatment framework on imported glass bottles. The deletion is intended to remove the proposed excise duty imposition on imported glass bottles, particularly those sourced from East African Community (EAC) partner states, in order to ensure compliance with EAC Customs Union protocols and avoid discriminatory taxation of regional goods. The proposal further seeks to revise Paragraph 1 of Part I of the First Schedule to the Excise Duty Act, 2015 relating to imported glass bottles by reducing the excise duty rate from 35% of excisable value or KSh 40 per kilogram (whichever is higher) to 25% or KSh 40 per kilogram (whichever is higher), while retaining the exclusion for imported glass bottles used for pharmaceutical packaging and those originating from EAC member states. In addition, it introduces an excise duty refund mechanism under the Second Schedule, allowing manufacturers to claim refunds on imported glass bottles and thereby recognizing glass as a key industrial raw material.

1431. The proposal is expected to strengthen regional trade compliance by aligning Kenya with EAC Customs Union obligations and avoiding potential breaches of the free movement of goods framework. It is also expected to stabilize manufacturing input costs by preventing additional taxation on glass bottles and reducing the cost of imported glass, particularly for manufacturers reliant on imports due to limited local

production capacity. This will enhance industrial competitiveness by making locally manufactured goods more price-competitive relative to imported finished products and preserving the competitiveness of downstream industries such as beverages, food processing, and pharmaceuticals. Further, the introduction of a refund mechanism and reduced duty rate is expected to correct tax structure distortions arising from tax stacking, support sustainable packaging choices by promoting a fairer tax treatment between glass and alternative materials such as plastics, and, over time, strengthen EAC trade relations, improve export competitiveness, and enhance industrial efficiency through stable supply chains, competitive sourcing, and improved production quality.

Committee Observation

The Committee noted EABL's proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 36(a) (xxxiv)

1432. Delete the proposal to remove the current provision under the Excise Duty Act limiting Extra Neutral Alcohol (ENA) to licensed manufacturers and retain the existing requirement restricting its purchase to licensed manufacturers. ENA is a highly purified, neutral ethyl alcohol with a minimum ethanol content of 96% and is a key raw material used in the manufacture of alcoholic beverages. Its restricted distribution is intended to ensure traceability, accountability, and regulatory oversight, enabling authorities to maintain visibility over its sale and end-use.

1433. Stakeholders noted that if not properly controlled, ethanol can be diverted into illicit alcohol production, where it is used to manufacture dangerous artisanal brews such as "chang'aa," which continue to pose severe public health risks. They further highlighted the practice of "smart brewing," where industrial ethanol is used to fortify traditional brews and artificially increase alcohol strength, significantly raising toxicity levels. Kenya has experienced repeated cases of alcohol poisoning, hospitalizations, and fatalities linked to unsafe illicit alcohol, underscoring the need to retain strict controls on ENA to protect public health and strengthen enforcement against illicit brewing.

Committee Observation

The Committee noted the proposal raised by EABL but took a different view, observing that the provision is intended to prevent the cascading of excise duty by allowing Extra Neutral Alcohol (ENA) used as a raw material in the manufacture of alcoholic beverages to receive appropriate excise treatment within the production chain. This ensures that excise duty is not

imposed multiple times on the same product during the manufacturing process.

Clause 42

1434. Delete the proposal since it contravenes the prevailing self-assessment regime and disregards the need for taxpayer engagement, reconciliation of underlying data and clarification before an issuance of an assessment.

Committee Observation

The Committee acknowledged EABL's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1435. Delete the proposal as it will lead to increased cashflow pressure, high administrative burden on businesses, and operational inefficiencies for the tax authority.

Committee Observation

The Committee considered the concerns raised by EABL and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

New Proposal

Sustainable Waste Management Act, 2020

1436. Amend Section 13 of the Sustainable Waste Management Act, 2020 (Cap. 387C) to exempt producers, including manufacturers and importers registered under approved Extended Producer Responsibility (EPR) schemes, from the EPR Levy. The amendment introduces a new Section 13(3A), which provides that any registered

producer who is a member of an approved EPR scheme and holds a valid compliance certificate from the Authority shall be exempt from paying the EPR import levy. The proposal is intended to eliminate double charging by ensuring that producers who already contribute to Extended Producer Responsibility obligations through Producer Responsibility Organisations (PROs), alongside other regulatory and county-level fees, are not subjected to additional levy costs. It is also expected to reduce production and trade costs by lowering input expenses on raw materials and intermediate goods, thereby supporting manufacturing competitiveness and improving trade efficiency. In addition, the exemption is expected to address regulatory overlap and implementation challenges by simplifying compliance requirements, reducing conflicts with customs valuation systems, and easing administrative burdens for both taxpayers and regulators.

Committee Observation

The Committee acknowledged EABL's proposal but noted that the Sustainable Waste Management Act is not one of the Acts sought to be amended in the Bill, thus falling outside the scope of the subject matter of the Bill. Further, the Committee encouraged KBL to pursue the matter with the Departmental Committee on Environment, Forestry and Mining of the National Assembly or petition the National Assembly for the amendment.

3.3.76 JOCKEY CLUB OF KENYA

Clause 2(e)

1437. Retain definition and ensure consistent cross-referencing with regulations governing sports. This alignment will provide critical statutory clarity by explicitly netting out the initial stake from winnings, which correctly avoids taxing the punter's own seed capital and prevents a punitive double-taxation environment on player funds.

Committee Observation

The Committee noted the concerns raised by Jockey Club and resolved to harmonize taxation on betting.

Clause 2(d)

1438. Amend the definition of "withdrawals" to any amount of money, cash equivalent, or money's worth paid exclusive of the staked amount disbursed to the account of a player, by a person licensed under the Gambling Control Act, 2025. Furthermore, redefining platform withdrawals ensures that simple administrative transfers such as moving non-winning wallet cash or pre-staked deposits back to a bank or mobile money account are not falsely treated as separate taxable events, thereby safeguarding clear transaction flows and protecting players from unfair tax assessments on capital.

Committee Observation

The Committee noted the concerns raised by the Jockey Club. However, it observed that the proposed amendment only broadens the definition of "withdrawals" to ensure the uniform application of withholding tax across both online and land-based betting activities by resolving ambiguity that excludes land-based betting and gaming establishments that operate through cash and cash-equivalent instruments from the tax net, resulting in unequal tax treatment and revenue leakage.

Clause 22(b)(y) and Clause 22 c (r)

1439. Amend clause 22 (b), introducing subparagraph (y)to 'in respect of winnings, fifteen per cent.' The proposed 20% withholding tax is economically regressive and will heavily burden the taxpayer, as it imposes an unsustainable burden on the winnings of taxpayers.

1440. Amend clause 22 (b), introducing (y) and (r) in respect of winnings, five per cent. This will also create administrative and compliance hurdles for operators tracking varied pool payouts. By making local operations completely uncompetitive against offshore/global platforms, punters will incline towards unregulated offshore digital platforms. This will result in local transaction volumes collapsing, leading to reduced overall revenue margins of gambling companies and subsequently less gaming revenue tax paid by betting firms in Kenya.

Committee Observation

The Committee noted the concerns raised by Jockey Club and resolved to harmonize taxation on betting.

Clause 36(b)(ii)

1441. Delete the entire clause for horse racing in Kenya is heavily reliant on betting systems, where betting revenue has a direct impact on the sport itself." In previous tax legislative cycles, such as in 2022, the proposal to impose excise duty on betting on horse racing was deleted on the very basis that imposing excise duty on the initial stake would act as a severe barrier to entry, discouraging formalized local staking and directly threatening the survival of the horse racing sport ecosystem.

1442. The layered combination of an upfront excise tax on stakes alongside a heavy withholding tax on eventual payouts creates a compounding punitive tax environment. Imposing excise duty at the point of wagering is fundamentally counterproductive, as it drives punters to switch to unregulated betting ecosystems. which will subsequently lead to an overall drop in KRA tax collections. Ultimately, this severe disruption to public wagering will choke essential operational revenue, which might even lead to the permanent closure of horse racing in Kenya, resulting in a devastating loss of jobs and livelihoods for the many Kenyans employed to run the sport.

Committee Observation

The Committee acknowledged the concerns raised by Jockey Club and observed that the proposals in the Bill harmonise terms and definitions relating to betting and gaming activities under the Excise Duty Act.

3.3.77 ALCOHOLIC BEVERAGES ASSOCIATION OF KENYA (ABAK)

Clause 36 (a) (xxxiv)

1443. Amend this proposal by retaining the restriction that Extra Neutral Alcohol (ENA) may only be supplied to licensed manufacturers of spirituous beverages. While the reduction in excise duty would lower production costs and improve the competitiveness of local manufacturers, removing the licensing restriction could increase access by unlicensed persons, fuel the production of counterfeit and illicit alcohol, and undermine enforcement efforts. Retaining the current restriction would support effective regulation while preserving the intended benefits of the reduced excise duty.

Committee Observation

The Committee acknowledged the concerns raised by the ABAK but noted that, although the proposed amendment was intended to clarify that extra neutral alcohol used in the manufacture of spirituous beverages qualifies for the special excise duty rate whether imported or locally purchased, the current drafting inadvertently deletes the reference to licensed manufacturers of spirituous beverages, who are the intended beneficiaries. The Committee was therefore of the view that the provision should be deleted from the Bill to avoid ambiguity, as the intended clarification can be addressed administratively.

Clause 36 (xiii), (xix), (**xxxi**), (**xxxiii)**

1444. Amend this proposal by reducing the excise duty rate on imported glass bottles from 35% to 25% (or KSh 40 per kg, whichever is higher), retaining exemptions for pharmaceutical packaging and EAC-origin bottles, and introducing a refund mechanism for manufacturers. This adjustment would align Kenya with EAC Customs Union obligations, prevent discriminatory taxation, and support regional trade integration. It would also reduce input costs for key sectors such as beverages, food processing, and pharmaceuticals by addressing tax stacking, improving competitiveness of local manufacturers, and encouraging environmentally sustainable packaging choices through fairer tax treatment of glass materials.

Committee Observation

The Committee acknowledged the proposal by ABAK and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

New Proposals

1445. Amend Paragraph 1 of Part I of the First Schedule to the Excise Duty Act, 2015 on imported glass bottles as follows:

Imported Glass bottles; 25% or forty shillings per KG, whichever is higher(excluding imported glass bottles for packaging of pharmaceutical products); or

1446. Introducing a combined ad valorem and weight-based excise duty increases the tax burden on heavier imports and raises overall costs for imported glass bottles, which are essential inputs for key industries. This is particularly problematic given Kenya's limited local production capacity, reliance on imports to meet demand, and existing cost pressures in the manufacturing sector. The proposal would also undermine the competitiveness of locally produced goods, create tax distortions, and may conflict with regional trade commitments under COMESA relating to non-discrimination and fair treatment of goods from member states. Retaining a simpler, reduced-rate structure would support industry competitiveness, ensure adequate supply of packaging materials, and promote regional trade compliance.

Committee Observation

The Committee acknowledged the concern by ABAK. However, it noted that the reduction would undermine the policy objective of the excise duty on imported glass bottles.

New Proposal – Excise Duty Act

1447. Introduce a new section 12 (6) as follows: of the Excise Duty Act 2015 to provide for an allowance for spirits and transit losses as follows:

The Commissioner may determine and specify the allowance for transit losses that may be granted and the conditions under which it is granted.

Committee Observation

The Committee noted the proposal by ABAK but observed that there was need for further consultation and research on its impact.

1448. Introduce a new section 36 (1) (B) as follows:

Where the Commissioner under paragraph (1) directs ascertainment by weighing, the volume shall be calculated —

(a) by use of a mass flow meter at twenty degrees centigrade with an accuracy of +/-3% of the measured volume in litres.

1449. Temperature has an effect on ethanol volume readings. When the readings are taken at warmer temperatures, the ethanol quantity is usually higher as opposed to a colder temperature. This lack of standardisation normally results in significant losses. Regulations in other jurisdictions such as South Africa, Europe, the US, and the UK provide for allowances for spirits processing losses.

Committee Observation

The Committee noted the proposal by ABAK but noted that introducing statutory allowances for ethanol transit and storage losses would create significant compliance and enforcement risks in a sector that is highly susceptible to diversion, under-declaration, and excise revenue leakage. While minor volumetric variations may arise from temperature fluctuations and handling, substantial losses are largely attributable to operational inefficiencies, leakage, venting, or inadequate storage and transportation systems, which should be addressed through improved industry practices rather than compensated through tax policy. Granting statutory loss allowances would weaken accountability, create opportunities for abuse, and undermine the integrity of the excise duty regime by effectively transferring the cost of avoidable commercial losses to the Exchequer.

New Proposal

1450. Amend Section 42A(4B) of the Tax Procedures Act by extending the remittance deadline for withholding VAT from five days to the 5th day of the following month. The current five-day remittance requirement has created significant cash flow pressures on businesses, increasing reliance on costly short-term financing such as overdrafts and disproportionately affecting small and medium enterprises that may lack sufficient liquidity. It has also imposed a heavy administrative burden on large taxpayers due to frequent invoice adjustments, reversals, and withholding tax certificate cancellations. Extending the remittance timeline would ease compliance, improve cash flow management, and reduce administrative inefficiencies without affecting revenue collection.

Committee Observation

The Committee noted the proposal by ABAK and noted that extending the Withholding remittance deadline to the 5th day of the following month would fundamentally compromise real-time cash visibility for the Exchequer and break the synchronization loop with electronic invoice matching systems like eTIMS. The existing five-day statutory window under Section 42A(4B) of the Tax Procedures Act is critical for preventing input VAT fraud, as it allows the Kenya Revenue Authority to match

withheld transactions immediately against corresponding supplier invoices before tax credits are falsely claimed.

New Proposal

1451. Amend Section 13 of the Sustainable Waste Management Act, 2020 by introducing a new subsection exempting registered producers from import fees or levies where they are compliant with Extended Producer Responsibility (EPR) requirements. This exemption would apply to producers who are registered in Kenya and who provide proof of membership in an approved EPR scheme and a valid EPR certificate from the Authority. The amendment aligns with the Act's objective of promoting producer responsibility in waste management while avoiding duplication of charges on compliant producers. It would also incentivize participation in EPR schemes and support efficient implementation of sustainable waste management obligations.

Committee Observation

The Committee acknowledged the proposal by the ABAK but noted that the Sustainable Waste Management Act is not one of the Acts sought to be amended in the Bill, thus falling outside the scope of the subject matter of the Bill. Further, the Committee encouraged KBL to pursue the matter with the Departmental Committee on Environment, Forestry and Mining of the National Assembly or petition the National Assembly for the amendment.

New Proposal – ITA

1452. Amend section 35 of the Income Tax Act to extend the remittance period of withholding VAT tax to the 5th of the following month from the current 5 days after the deduction was made to read as follows:

Section 35 (5)(a)

Where a person deducts tax under this section the person shall, remit the amount so deducted to the Commissioner by the 5th of the following month.

1453. Withholding value added tax was introduced with the aim of ensuring Government receives revenue on a timely basis through the year, avoid huge tax burdens by taxpayers, and enhances visibility of taxpayers and enhances tax compliance. In 2023, under the Finance Act, the timeline for remitting Tax or VAT (WHT) from 20th of the following month was reduced to 5 working days.

Committee Observation

The Committee acknowledged ABAK's proposal but observed that extending the withholding remittance deadline to the 5th day of the following month would fundamentally compromise real-time cash visibility

for the Exchequer and break the synchronization loop with electronic invoice matching systems like eTIMS.

New Proposal – ITA

1454. Amend the Third Schedule of the Income Tax Act to ensure the highest PAYE tax Band is 30% and a reduction of 5% on all tax bands as follows:

1455. Delete paragraph 1 under Head B-Rates of Tax and substitute therefor the following new paragraph—

1. The individual rates of tax shall be—

i. On the first Ksh. 30,000 at 10%
ii. On the next Ksh. 8,333 at 20%
iii. On the next Ksh. 461,667 at 25%
iv. On the next Ksh. 300,000 at 27.5%
v. On amounts over Ksh 800,000 at 30%

1456. Amend as follows: Increase to Ksh 3,000 to set the monthly tax-free threshold at Ksh 30,000; the amount of personal relief prescribed in paragraph 1, Head A of the Third Schedule should be increased.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

1457. Amend section 42A (4B) of the Tax Procedures Act to extend the remittance of withholding VAT tax to the 5th of the following month from the current five (5) days after the deduction was made as follows:

Section 42A (4B)

The tax withheld under this section shall be remitted to the Commissioner 5th of the following month after the deduction was made.

1458. The Finance Act, 2023 reduced the timeline for remitting Tax or VAT (WHT) from 20th of the following month to within 5 working days. The short remittance deadline has impacted cash flows leading to increased operating capital needs with a requirement to lend through bank overdrafts and consequently an additionsal business cost. For the smaller entities with no readily available capital, it could lead to business loss or closure.

Committee Observation

The Committee noted the proposal by ABAK and noted that extending the withholding remittance deadline to the 5th day of the following month would fundamentally compromise real-time cash visibility for the Exchequer and break the synchronization loop with electronic invoice matching systems like eTIMS. The existing five-day statutory window under Section 42A(4B) of the Tax Procedures Act is critical for preventing input VAT fraud, as it allows the Kenya Revenue Authority to match withheld transactions immediately against corresponding supplier invoices before tax credits are falsely claimed.

3.3.78 KWAL

Clauses 18 and 19

1459. Delete the clause because the proposed four-month deadline would be impractical for businesses with complex operations that require consolidated audits, transfer pricing studies, and alignment of local and master files and the current timeline allows companies adequate time to reconcile accounts, consolidate records, complete internal reviews, and obtain board and external audit approvals before filing returns. They noted that maintaining the existing six-month window provides a more balanced approach that supports compliance, sound corporate governance, and accurate financial reporting.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 28

1460. Delete the Clause or re tain the current two-year period or reduce it to one year, noting that companies already account for and remit output VAT on a monthly basis. Extending the refund period would unnecessarily tie up working capital, limit the ability of businesses to contribute effectively to the Bottom-Up Economic Transformation Agenda (BETA), and potentially lead to lower productivity, reduced output, and job losses.

1461. The Stakeholder further noted that debt recovery measures such as engaging debt collectors and pursuing court enforcement actions are typically undertaken within 12

months, making a longer waiting period unnecessary. They therefore recommended that if any amendment is to be made, the current two-year period should instead be reduced to one year rather than extended to three years.

Committee Observation

The Committee acknowledged the concern raised by stakeholders but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 36 (a) (v)

1462. Delete the Clause and retain the current provision under the Excise Duty Act. Opening access to ENA to all persons would increase the proliferation of illicit and counterfeit alcohol products in the market by creating enforcement and regulatory gaps that could be exploited by unlicensed operators. They further noted that wider uncontrolled access to ENA would undermine compliance efforts, increase public health risks, and contribute to social harms arising from the availability of cheap and unregulated alcohol, thereby placing additional strain on public health systems.

1463. The Stakeholder acknowledged the proposal in the Bill to reduce the excise duty rate on ENA from the current KSh 500 per litre to KSh 80 per litre, noting that the current Kenyan rate remains significantly higher than rates in Uganda and Tanzania. However, they emphasized that retaining the restriction limiting access to licensed manufacturers is necessary to prevent misuse of the lower excise rate by counterfeiters and to ensure that the competitiveness gains arising from the reduced rate benefit only legitimate manufacturers.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that, although the proposed amendment was intended to clarify that extra neutral alcohol used in the manufacture of spirituous beverages qualifies for the special excise duty rate whether imported or locally purchased, the current drafting inadvertently deletes the reference to

licensed manufacturers of spirituous beverages, who are the intended beneficiaries. The Committee was therefore of the view that the provision should be deleted from the Bill to avoid ambiguity, as the intended clarification can be addressed administratively.

Clause 36 (viii-xxxiii)

1464. Retain the East African Community (EAC) origin carve-out in all affected tariff descriptions. Stakeholders argued that removing the EAC origin exclusion would subject goods originating from EAC Partner States to a 10% excise duty, thereby creating unequal tax treatment compared to locally produced goods and undermining the principles of regional integration. They further noted that the removal of the carve-out would amount to a breach of Articles 5, 75, and 76 of the Treaty for the Establishment of the East African Community (1999) as well as the Protocol on the Establishment of the EAC Customs Union (2004). Stakeholders warned that the proposal could invite retaliatory measures against Kenyan exports by EAC Partner States, expose Kenya to legal challenges before the East African Court of Justice, and weaken Kenya's leadership position within the EAC integration agenda.

1465. Stakeholders also noted that manufacturers relying on imported regional inputs, particularly plastics and other packaging materials used across the alcoholic beverages sector and broader manufacturing industry, would face increased production costs if the carve-out is removed. They argued that this would disrupt regional supply chains, increase the cost of manufacturing, and further erode the competitiveness of locally manufactured products within both regional and international markets.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders; however, it observed that the proposal is a consequential clean-up aimed at aligning the tax base from customs value to excisable value and adjusting the specific rate in line with the revised definition of imports that excludes goods originating from EAC Partner States under the Rules of Origin. The Committee further noted that this alignment ensures consistency in the excise duty framework, eliminates potential inconsistencies in valuation, and promotes coherence in the application of tax provisions across the regional trade regime.

Clause 45

1466. Delete the proposal for it would allow the Commissioner to issue and enforce agency notices notwithstanding the existence of a pending appeal before appellate forums. Stakeholders argued that the amendment would materially alter the balance between tax enforcement and fair dispute resolution under the Tax Procedures Act

by permitting immediate collection measures, including the freezing of taxpayers' bank accounts, before the underlying tax liability has been conclusively determined.

Committee Observation

The Committee noted the concern raised by the stakeholder however, it observed constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended the deletion of the proposal.

3.3.79 GULFCAP REAL ESTATE

Clause 31 (a) (vii)

1467. Delete the proposal that proposes to delete Paragraph 109 on goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme approved by the Cabinet Secretary on the recommendation of the Cabinet Secretary responsible for matters relating to housing. The deletion of this provision would remove the VAT exemption currently applicable to affordable housing construction inputs, thereby increasing the overall cost of developing affordable housing units.

1468. Construction materials such as cement, steel, tiles, fittings, glass, sanitaryware, paint, plumbing materials, and electrical components typically account for 70–80% of the total construction cost of an affordable housing unit. Subjecting these inputs to 16% VAT would significantly increase development costs and could raise the final selling price of housing units by approximately 16%, with no corresponding benefit to either the developer or the homebuyer.

1469. The current pricing of affordable housing units was negotiated and locked into agreements between developers and the Government based on the existence of these tax incentives. The introduction of VAT on these inputs at this stage would disrupt project cash flows, necessitate contract renegotiations, and potentially stall ongoing and planned developments due to the inability to absorb the additional costs. This would undermine the Affordable Housing Programme, which is intended to enable Kenyans to access decent housing at affordable rates in fulfilment of the constitutional right to housing.

1470. Further, the exemption is non-leaky because affordable housing projects are implemented within regulated approval frameworks, making the use of exempt inputs project-specific, traceable, and fully auditable by both the Kenya Revenue Authority and the National Treasury in line with Treasury Circular No. 9/2018 on the Guidelines and Framework for Requesting, Processing, and Granting of Tax Exemptions, Waivers, Variations, and Remissions. The exemption is therefore a controlled and verifiable fiscal support measure rather than a general consumer tax break, ensuring that the

intended benefit is directly passed on to affordable housing projects and ultimately to Kenyan homeowners.

1471. Additionally, the Affordable Housing Programme remains one of the largest sources of demand for locally manufactured construction materials. Retaining the exemption would continue to support local industries, preserve jobs across the construction value chain, and stimulate economic activity within the manufacturing sector.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

3.3.80 M-GAS LIMITED

Clause 2(c)

1472. Amend the proposal to expressly exclude mobile money transaction fees paid by the end consumers to licensed payment service providers. Any WHT obligation arising from the proposed definition in the Bill should be limited to business-to-business payments and not consumer-initiated transactions. This is because the proposal would create widespread compliance uncertainty across the mobile money ecosystem which is central to financial inclusion in Kenya.

Committee Observation

The Committee acknowledged M-Gas's proposal but noted that mobile money transfer services remain VAT exempt. Thus, the proposal is not consistent with the provision in the Bill.

Clause 16

1473. Delete the proposal in its entirety. Alternatively, define with clear criteria the phrase 'could have distributed' a statutory credit mechanism to prevent double taxation on actual distribution; and reduce the 60% threshold to align with regional practice.

Committee Observation

The Committee acknowledged the concerns raised by M-Gas, but did not agree with the proposal to the entire clause. The Committee further observed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered

it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18 and 19

1474. Delete the proposal and retain the existing 6-month deadline or in the alternative limit the proposed shortened deadline to companies with straightforward tax positions and not entities subject to transfer pricing obligations, regulatory reporting requirements or group audit processes. This is because the proposal is likely to increase compliance costs without generating additional revenue for KRA and may result in more returns being filed on incomplete of unaudited financial information.

Committee Observation

The Committee acknowledged M-Gas's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23(b)

1475. Delete the proposal in its entirety. Alternatively, amend to include a defined de minimis threshold below which the provision does not apply; a look-back period consistent with existing CGT provisions; a clear apportionment formula to limit Kenya CGT to the proportion of gain economically attributable to Kenyan assets; and an express exclusion for routine intragroup reorganizations that do not result in a change of ultimate beneficial ownership.

Committee Observation.

The Committee acknowledged the proposals made by M-Gas. However, it held a different view and recommended that the clause be retained. The clause intends to introduce a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation.

Clause 31(b)(i)

1476. Delete the proposal and retain the VAT exemption for mobile money transfer services. This is because the proposal would disproportionately impact clean energy businesses and their customers thereby undermining Kenya's clean cooking and financial inclusion.

Committee Observation

The Committee acknowledged M-Gas's proposal but noted that mobile money transfer services remain VAT exempt. Thus, the proposal is not consistent with the provision in the Bill.

Clause 31(a)(ix)164-166 and 32(d), (e) and (f)

1477. Retain electric motorcycles, bicycles, buses and lithium-ion batteries as zero-rated to preserve the full VAT incentive for clean energy adoption. Alternatively, should the proposal be enacted, introduce an enhanced tax relief mechanism to prevent suppliers from bearing irrecoverable embedded VAT costs.

Committee Observation

The Committee agreed with M-Gas's proposal to retain the supply of motorcycle of tariff heading 8711.60.00, the supply of electric bicycles, the supply of solar and Lithium-ion batteries and the supply of electric buses of tariff heading 87.02 in the second schedule of the VAT Act (Zero rated category)

Clause 45

1478. Delete the proposal and instead retain the existing Section 42(14)(e) because it is a fundamental safeguard for taxpayers' constitutional rights.

Committee Observation

The Committee agreed with M-Gas on this proposal.

3.3.81 CARVIC - SOLAR TELEVISION

Clause 31 (a) (ix)

1479. Amend to include VAT exemption on the following: Inputs and raw materials imported or locally purchased for the official and locally assembled solar televisions whose local content is at least 30%, as guided by the EAC Rules of Origin. This will lower the retail price for low-income and rural consumers, encourage domestic assembly over fully built imports and safeguard existing manufacturing jobs and

encourages further technical skill development. The new section should read as follows;

"171. inputs and raw materials used in local assembly of solar television

172. the local assembled solar television whose ex-factory value comprises at least 30% of local content as defined in the EAC rules of origin."

Committee Observation

The Committee noted the proposal by Carvic-Solar Television and undertook to consider it in future legislation.

3.3.82 DIRECT PAY LIMITED

Clause 31(b)(ii)

1480. Delete the proposal and instead retain the existing VAT exemption for PSP transfer, payment processing, settlement, merchant acquiring, gateway and aggregation services to support financial inclusion, sustain affordable access to essential payment services and ensure tax neutrality and avoid market distortions, among others.

Committee Observation

The Committee acknowledged the concern raised by Carvic-Solar Television but held the view that this provision intends to impose VAT to a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee however noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

3.3.83 SAFARICOM

Clause 31 (a) (ix) 163, Clause 32 (c), and Clause 36 (a) (i)

1481. Amend the Finance Bill, 2026 by retaining the zero-rated VAT status of locally assembled mobile phones and deleting the proposed 25% excise duty on such devices. Reclassifying these devices and introducing excise duty would increase production costs by denying input VAT recovery and raising retail prices for consumers. This would reduce affordability, slow digital inclusion, and undermine investment in local assembly and manufacturing. Retaining the current tax treatment would support the competitiveness of the local industry and advance the government's digital transformation objectives.

Committee Observation

The Committee acceded to Safaricom PLC's proposal to retain the zero-rated VAT status of locally assembled mobile phones by deleting the proposed 25% excise duty on such devices.

Clause 31(b)(i)

1482. Delete the clause and maintain the status quo because these services supplied over a software or platform for a fee or commission by payment service provider should continue to enjoy VAT exemption similar to like financial services over traditional channels.

Committee Observation.

The Committee acknowledged the concern raised by Safaricom PLC but observed that specifically referring to mobile money would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clauses 34 and 35

1483. Delete Section 34 of the Bill, a proposal to shift Excise Duty on Mobile Phones from Importation to the activation point.

Committee Observation

The Committee agreed with Safaricom PLC on the proposed deletion.

Clause 36(a)(i)

1484. Delete Section 36(a)(i) of the Bill or alternatively, amend Section 36(a)(i) of the Bill to expressly exclude locally manufactured phones from the ambit of the proposed 25% excise duty.

Committee Observation

The Committee agreed with the Safaricom PLC's proposal to delete the excise duty rate on imported cellular phones.

New proposal

1485. Amend Section 16(1)(c) of the Income Tax Act, Cap 470, that was introduced by the Finance Act, 2023, conditions the deductibility of business expenditure on invoices generated through the electronic Tax Invoice Management System (eTIMS). In practice, the provision creates legal, practical, and accounting mismatches: income tax returns are based on audited IFRS accounts, not on an invoice-transmission ledger, with the result that genuine expenditure may be disallowed solely for want of an eTIMS invoice, notwithstanding other reliable evidence.

Committee Observation

The Committee noted the proposal by the Safaricom PLC and undertook to consider it in future legislation.

New proposals

1486. Repeal of section 16(1)(c) of the Income Tax Act, Cap. 470.

Committee Observation

The Committee noted the proposal by Safaricom PLC and undertook to consider it in future legislation.

1487. Insert section 15(8A) in the Income Tax Act as follows;

"(8A) Despite the repeal of section 16(1)(c), expenditure or a loss incurred by a person wholly and exclusively in the production of income in a year of income shall, subject to this Act, be deductible under subsection (1)where the expenditure or loss was incurred in the period beginning on 1 January 2025 and ending immediately before the commencement of the repeal of section 16(1)(c), notwithstanding that an invoice relating to the transaction was not generated from an electronic tax invoice management system."

Committee Observation

The Committee noted the proposal by Safaricom PLC and undertook to consider it in future legislation.

1488. Amend Section 23(A) of the Tax Procedures Act by adding a new subsection (6) which provides for the exemption of M-pesa transaction fees from the requirement of an e-TIMS invoice. This would allow Safaricom to benefit from the same exemption enjoyed by financial institutions offering the same services.

Committee Observation

The Committee noted the proposal by Safaricom PLC and undertook to consider it in future legislation.

1489. Amend Income tax Act to have a Consolidated Investment Allowance for data centers

"(1C) Notwithstanding paragraph 1, the investment deduction shall be one hundred per cent where a person incurs capital expenditure on a data centre or data centre equipment, provided that the cumulative investment value on any data centre or data centre equipment for the preceding four years from the date that this provision comes into force, or the cumulative investment incurred at any time thereafter, is at least one billion shillings."

1490. To ensure the incentive targets qualifying infrastructure, we propose the following legal definitions be added as a proviso:

Provided that for the purposes of paragraph (1C)

"data centre" means a facility, including any addition to, phase of, or expansion of the facility, used to house a group of network edcomputer servers in one physical location or multiple contiguous locations to centralise the storage, management, and dissemination of data and information, and includes— (i) buildings, and site improvements; and (ii) civil works and ancillary infrastructure necessary for the operation of the facility.

(b) "data centre equipment" means computer equipment, software, and related equipment used for the processing, storage, retrieval, or communication of data, including— (i) servers, routers, connections, racks, cabinets, and other enabling machinery, equipment, and hardware; (ii) equipment and machinery necessary for the transformation, generation, distribution, storage, or management of electricity required to operate the data centre, including substations, generators, uninterruptible energy equipment, fuel piping and storage, cabling, and backup generators; (iii) equipment necessary to cool and maintain a controlled environment for the operation of computer servers, including chillers, mechanical equipment, refrigerant piping, cooling towers, raised flooring systems, and air handling unit; and (iv) monitoring equipment, access control and security systems, and fire suppression systems necessary to the operation of the data centre

Committee Observation

The Committee noted the proposal by Safaricom PLC and undertook to consider it in future legislation.

3.3.84 AIRTEL NETWORKS (KENYA) LIMITED

Clause 31(b)(i)

1491. Delete the proposal to retain the VAT-exempt status of money transfer services for affordability of mobile money services and to promote an inclusive and digitally driven financial ecosystem among others. Furthermore, its deletion would preserve

integrity and coherence of the tax framework designed to ensure that financial services are taxed once, either through the VAT or the Excise Duty regime. The proposed amendment could read as follows:

"(b) the issue, transfer, receipt, or any other dealing with money, including money transfer services, payment processing, settlement, merchant acquiring, gateway, or aggregation services supplied via software or platforms for a free or commission by a payment service provider, as well as accepting over-the counter payments of household bills; but excluding the services of carriage of cash, restocking of cash machines, sorting, or counting of money"

Committee Observation

The Committee acknowledged the concern raised by Safaricom PLC but observed that specifically referring to mobile money would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

New Proposal

1492. Amend Section 15(4) and (5) of the Income Tax Act to extend the limitation of the carrying forward period of tax losses from five to ten years for project viability of capital-intensive infrastructure projects and to align tax policy with national development goals and with international and regional best practice. Further amend Section 15(4) of the Income Tax Act by inserting a transition clause as a proviso after Section 15(4) to maintain investor confidence and predictability in the tax system, align with established legislative practice under previous amendments to Section 15(4) and minimize impact on taxpayers with pre-2025 losses. The proposed amendment could read as follows:

"(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 succeeding nine years of income.

(5) Notwithstanding subsection (4), the Minister may, on the recommendation of the Commissioner, extend the period of deduction beyond ten years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period.

Provided that any deficit incurred by a person as at 1st July 2025 shall be deemed to have been incurred in that year of income."

Committee Observation

The Committee noted the proposal by Safaricom and undertook to consider it in future legislation.

3.3.85 VIFFA CONSULT, AFRICAN INSTITUTE OF MSME POLICY AND RESEARCH, AND KENYA NATIONAL FEDERATION OF JUA KALI ASSOCIATIONS

Clause 2

1493. Delete the proposal to protect the low-value digital transactions from excessive taxation.

Committee Observation

The Committee noted the stakeholders' proposal but observed that it was not consistent with the provision in the Bill.

Clause 2 (c)

1494. Delete the proposal and find ways for MSME-friendly digital taxation policies. The expanded royalty definition to include payments for proprietary digital platforms, payment card schemes, processing systems, and switching systems (Section 2(c) of the Bill) signals a broad intention to tax digital infrastructure.

Committee Observation

The Committee agreed with the stakeholders' proposal.

Clause 19

1495. Delete the clause because for informal MSMEs that do not maintain systematic financial records, this compression of compliance timelines represents a significant additional burden, increasing the risk of non-compliance penalties which, under Section 86 of Cap. 469B, can be as high as two times the tax due.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 27

1496. Reject the proposal and have phased repayment arrangements and transition mechanisms.

Committee Observation.

The Committee acknowledged the concern raised by stakeholders, but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies. The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 31(a) (ix) (169)

1497. Delete the proposal and have phased implementation over three years and support mechanisms for mitumba traders.

Committee Observation.

The Committee acknowledged the concern raised by stakeholders but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

Clause 32 (a, b, c & h)

1498. Delete the proposal because VAT restructuring trend will raise costs for SMEs in critical sectors who are unlikely to absorb that extra cost; hence it will trickle down to consumers and make products less affordable.

Committee Observation

The Committee agreed with the stakeholders' proposals to delete the clauses.

Clause 36 (a)

1499. Delete the 25% excise duty imposition on mobile phones payable upon activation and defer implementation for at least 12 months, and exempt low-cost smartphones. On removing EAC origin exclusions from excise categories, they proposed alignment of the provisions with EAC integration objectives. On excise duty on unfermented juices, sugary juices, and plastic articles, they propose phased implementation and support for affected MSME value chains.

Committee Observation

The Committee agreed with the stakeholders that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services.

Clause 36 (a) (ii, vi, vii)

1500. Delete the clause because these changes directly affect small-scale vendors market stalls, kiosks, duka operators who sell beverages and tobacco products as primary inventory. Since MSMEs in the retail trade sector cannot easily absorb additional excise costs, these are typically passed to consumers, reducing affordability and potentially suppressing sales volumes.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholders but noted that the current excise duty framework does not distinguish sugar-sweetened beverages from other non-alcoholic drinks despite their higher health risks, thereby justifying a differentiated tax treatment. The Committee further held the view that the proposed increase in the excise duty rate on cigars, cheroots and cigarillos is intended to account for inflation, maintain the real value of the tax, and address the negative externalities associated with tobacco products. Consequently, the Committee retained the provisions as they are.

Clause 36 (a) (xxxv)

1501. Delete the proposal because excise duty on plastic articles affects packaging materials widely used by food processing MSMEs, agricultural produce traders, and

informal manufacturers, directly increasing production costs without a commensurate market price increase in a competitive low-margin environment.

Committee Observation.
The Committee acceded to the stakeholders' request to delete the proposal.

Clause 38

1502. Delete the proposal and propose clear cryptocurrency taxation guidelines and stakeholder engagement on the requirement by all virtual asset service providers to file information returns with KRA annually.

Committee Observation
The Committee acknowledged the stakeholders' concern but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements.

Clause 42

1503. Delete the proposal because this data-matching approach, while legitimate in principle, raises concerns for the informal sector where business income and personal expenses are often commingled.

Committee Observation
The Committee acknowledged the stakeholders' concern but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 50

1504. Reject the proposal and come up with capping penalties for microenterprises and implement gradually.

Committee Observation

The Committee acknowledged the concern raised by the stakeholders. However, it supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

3.3.86 VIRTUAL ASSETS CHAMBER OF COMMERCE (VACC)

Clause 31(b)(i)

1505. Delete the proposal because it would impose a significant burden on Kenya's financial industry through additional compliance system costs and weaken the competitiveness of Kenyan banks, payment service providers, mobile money platforms, fintechs and other regulated financial intermediaries in the wider African market.

Committee Observation

The Committee acknowledged the concern raised by the Virtual Assets Chamber of Commerce, and noted that the intention of this provision is to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 38 (6C)

1506. Consider a consultative and phased approach to ensure that the reporting obligations adopted by Kenya are proportionate, technically feasible, consistent with existing anti-money laundering and combating the financing of terrorism and data protection obligations. Though aligning Kenya with emerging international standards on crypto-asset reporting, the proposal raises significant legal, operational, compliance and constitutional concerns that require reconsideration and further stakeholder engagement prior to implementation.

Committee Observation

The Committee acknowledged Virtual Assets Chamber of Commerce's concern but noted that the introduction of a Crypto-Asset Reporting Framework under a new Section 6C is intended to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements.

Clause 38 (6D)

1507. Amend the proposal to require any automatic exchange framework be subject to clear regulations, data protection safeguards, confidentiality protections and coordination with the Office of the Data Protection Commissioner to ensure cross-border exchange of virtual asset information is lawful, secure, proportionate and consistent with Kenya's data protection framework and international tax transparency obligations.

Committee Observation

The Committee acknowledged the concerns raised by Virtual Assets Chamber of Commerce, but noted that the inclusion of cross-border information exchange provisions under the Crypto-Asset Reporting Framework, should be subject to robust data protection safeguards. The Committee further observed that the proposed amendments align with the Data Protection Act and constitutional privacy rights while enabling effective tax transparency.

New Proposal

1508. Amend Section 5(2) of the VAT Act to introduce a reduced VAT rate for VASP services to preserve VAT revenue while easing market distortion, minimize VAT avoidance and encourage compliance.

Committee Observation

The Committee noted the proposal by Virtual Assets Chamber of Commerce and undertook to consider it in future legislation.

1509. Being comparable to the financial services exempt from VAT, amend paragraph 1(b) and (m) of Part II of the First Schedule to the VAT Act to extend the exemption to virtual assets service providers (VASPs) in line with the High Court's decision in ***Pesapal Ltd v Commissioner of Domestic Taxes (2025)*** that affirmed that financial services regardless of the technology used to deliver them or the licensing status or regime of the provider within the VAT-exempt category when they perform functions analogous to payments settlement or fund transfer. Thus, amend to read as follows:

"(b) the issue, transfer, receipt or any other dealing with money, including money transfer services, and accepting over the counter payments of household
bills, but excluding the services of carriage of cash, restocking of cash machines, sorting or counting of money;
(m) the provision of the above financial services on behalf of another on a commission basis."

Committee Observation
The Committee noted the proposal by Virtual Assets Chamber of Commerce and proposed to consider it in future legislation.

1510. Amend Part II of First Schedule to the VAT Act to exempt custody fees, wallet services, exchange trading fees, settlement fees, and payment facilitation fees from VAT. This is because these services are the direct analogs of banking and PSP services already exempt. Furthermore, this approach is a minimal regulatory intervention preserving market function while the National Treasury studies the long-term framework.

Committee Observation
The Committee acknowledged the proposal by Virtual Assets Chamber of Commerce and proposed to consider it in future legislation.

1511. Amend Part A of the Second Schedule to the VAT Act to include VASP services to zero-rated supplies to avoid increasing the costs of digital asset transactions for users thereby protecting affordability for Kenyan users and supporting VASP operational sustainability, among others.

Committee Observation
The Committee noted the proposal by Virtual Assets Chamber of Commerce and proposed to consider it in future legislation.

3.3.87 BDO EAST AFRICA

Clause 2(c)

1512. Amend the proposal to distinguish payments for actual intellectual property rights from ordinary software use, cloud access, platform access, payment processing, card scheme fees and technical support to reduce disputes, protect digital transformation and preserve treaty-consistent taxation.

Committee Observation
The Committee observed that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion

Clause 16

1513. Amend the proposal to exclude legitimate retained earnings required for working capital, capital expenditure, debt service, regulatory capital, expansion and business continuity and to require taxpayer response before direction. This would protect businesses from forced dividend tax treatment while preserving anti-avoidance power.

Committee Observation

The Committee acknowledged the concerns raised by BDO East Africa and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 23

1514. Amend the proposal to include value thresholds, valuation rules, exemption for genuine internal reorganizations, exemption where ultimate beneficial ownership does not change and advance ruling mechanism. This would protect Kenya's tax base while improving investor certainty.

Committee Observation

The Committee observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further observed that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value. The Committee proposed to consider the proposal in a future legislation.

Clause 31

1515. Amend the proposal to retain VAT relief only where input VAT recovery is preserved for productive and socially sensitive value chains. Instead, zero-rate for inputs used in production.

Committee Observation.

The Committee acknowledged the proposal by BDO East Africa, but noted that the proposal would require further analysis to determine the impact on revenue.

Clause 32

1516. Amend the proposal to retain zero-rating for productive and socially sensitive supplies unless an equivalent input VAT recovery mechanism is introduced. This is because zero-rating is often better than exemption where the policy objective is affordability. Furthermore, this would prevent hidden VAT costs and protect consumers.

Committee Observation

The Committee acknowledged the proposal by BDO East Africa, but noted that the proposal would require further analysis to determine the impact on revenue.

Clause 41

1517. Amend the proposal to improve the definitions of "scheme" and "tax benefit" and to require commercial substance analysis, giving of written reasons and taxpayer response before adjustment to reduce arbitrary assessments and litigation.

Committee Observation

The Committee noted the proposal by BDO East Africa and proposed to consider it in future legislation.

Clause 42

1518. Amend the proposal to require prior notice, disclosure of data relied upon, a 30-day reconciliation period, opportunity for an affected taxpayer to respond and fast-tracking of correction for system errors. This would protect taxpayers from data errors in assessment whilst supporting modern compliance.

Committee Observation

The Committee acknowledged BDO East Africa's concerns, but noted that the intention of the proposed Section 29A intends to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1519. Amend the proposal to require KRA to issue notice of mismatch, disclose data relied upon, allow at least 30 days for reconciliation, prohibit penalties before taxpayer response and provide fast-track correction for system/third-party errors. This would improve trust and reduces disputes.

Committee Observation

The Committee noted the concern raised by BDO East Africa. However, it expressed constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended the deletion of the proposal.

Causes 48 and 52

1520. Amend the proposal to require taxpayer verification of the pre-populated tax returns to improve convenience whilst protecting taxpayers.

Committee Observation

The Committee agreed with BDO East Africa that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary. The Committee further noted that, the repeal and replacement of Section 86 is intended to establish a more robust penalty framework for non-compliance with electronic tax systems (eTIMS). The Committee further observed that the stronger penalty regime is necessary to enhance compliance and support effective implementation of electronic tax administration systems.

Clause 50

1521. Amend the proposal to include automatic safe harbour where a taxpayer proves system failure, KRA downtime, eTIMS malfunction, bank failure or reasonable steps taken to prevent penalizing a taxpayer for failures beyond their control.

Committee Observation

The Committee acknowledged the concern raised by BDO East Africa. However, it proposed an amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to

improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

New Proposals

1522. Amend Section 42A of the Tax Procedures Act to introduce a provision empowering the Commissioner to exempt specified sectors of taxpayers including petroleum operators and taxpayers demonstrating liquidity hardships from WHVAT through exemption certificates to protect compliant taxpayers from liquidity shocks while preserving KRA's ability to monitor risk.

Committee Observation

The Committee noted this proposal but did not agree with it because granting Withholding VAT (WHVAT) exemptions based on broad, subjective categories like NGOs, public-interest entities, thin-margin sectors, or "liquidity hardship" would severely erode the tax base and compromise the integrity of the VAT compliance trail. Introducing these carve-outs creates significant loopholes for tax evasion and places an unsustainable administrative burden on the Kenya Revenue Authority (KRA) to continuously evaluate the financial distress claims of private enterprises. Furthermore, petroleum operators are already regulated under specialized fiscal frameworks, making an additional bespoke exemption mechanism unnecessary. Modifying the WHVAT framework in this manner would dismantle a vital revenue-safeguarding tool, distort tax neutrality, and lead to substantial revenue leakage for the government.

1523. Amend the Section 17(2) of the Value Added Tax Act and/or the Tax Procedures Act to allow taxpayers to apply to the Commissioner to claim genuine input VAT outside the prescribed six-month window where the input relates to taxable supplies, valid invoices/eTIMS records exist, supplier was registered, output VAT has been declared or assesses and there is no fraud. This would restore VAT fairness and reduces disputes arising from genuine historical input claims.

Committee Observation

The Committee acknowledged this proposal but did not receive the Committee's favour because extending or introducing discretionary exceptions to the six-month statutory deadline for input VAT claims would

undermine revenue predictability and weaken tax administration. The current six-month window under Section 17(2) of the VAT Act provides a clear, balanced timeframe that ensures the Kenya Revenue Authority (KRA) can perform timely, accurate audits. Allowing historical claims outside this period would exhaust administrative resources on outdated records and encourage compliance delays. Furthermore, with real-time tracking systems like eTIMS, the existing six-month window is more than sufficient for diligent taxpayers to claim their legitimate input tax deductions.

3.3.88 PETROLEUM INSTITUTE OF EAST AFRICA (PIEA)

Clause 2(c)

1524. Amend the definition of "royalty" to expressly exclude ordinary payment processing and consumer payment transaction services offered by licensed payment service providers. Further that, the definition be amended to limit any WHT obligation to business-to-business payments and not consumer-initiated transactions. This would preserve the affordability of payment services, reduce compliance uncertainty and improve alignment between tax policy and Kenya's digital economy objectives.

Committee Observation

The Committee noted the proposal by Petroleum Institute of East Africa. However, it observed that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 16

1525. Delete the proposal in its entirety because while it seeks to address tax avoidance through non-distribution of profits, it does not adequately take into account the operational realities of capital-intensive sectors such as the petroleum industry. Alternatively, amend the proposal to introduce safeguards including clear statutory criteria defining circumstances under which profits are deemed distributable and an explicit mechanism to prevent double taxation upon actual distribution of dividends, among others.

Committee Observation

The Committee acknowledged the concerns raised by Petroleum Institute of East Africa but did not agree with the proposal to delete the entire clause. The Committee further observed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already

provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clauses 18 and 19

1526. Delete the proposal or amend to extend timelines for taxpayers subject to statutory external audits, entities with transfer pricing obligations, businesses operating within regulated sectors and companies undertaking group reporting and consolidated financial reporting. This would improve accuracy and completeness of tax returns.

Committee Observation

The Committee acknowledged the concerns by Petroleum Institute of East Africa and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23

1527. Amend the proposal to provide greater clarity, certainty and alignment with international tax principles by introducing clear materiality and participation thresholds and the definition of "derive value from Kenya", among others.

Committee Observation

The Committee acknowledged the concerns raised by Petroleum Institute of East Africa, but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation.

Clause 24

1528. Delete the proposal to allow for further stakeholder amendments to assess their long-term impact on upstream investment attractiveness prior to enactment. Furthermore, the definition of immovable property should be clarified to avoid unintended ambiguity regarding petroleum interests and for enhanced certainty within the upstream petroleum sector.

Committee Observation

The Committee acknowledges the concerns raised by Petroleum Institute of East Africa, but observed that the clause reduces the corporate tax rate for non-resident petroleum contractors from 37.5 percent to 30 percent, aligning it with the rate applicable to other non-resident companies in line with the harmonisation intention of the Finance Act, 2023, while also clarifying that the 15 percent tax on repatriated income applies equally to this sector. The Committee further noted that the amendment promotes fairness, consistency, and equity in the taxation of the extractive sector by harmonising corporate tax treatment and ensuring uniform application of repatriated income tax. In view of this, the Committee recommended that the clause be retained.

Clause 31(a)(ix) 164 to 166

1529. Delete the proposal and retain the enlisted items as zero-rated rather than reclassifying them as VAT-exempt. This is because reclassification from zero-rated to VAT-exempt status would increase procurement and operational costs for clean energy technologies, result in irrecoverable input VAT for suppliers and manufacturers and increase the cost of electric mobility adoption for consumers among others. Alternatively, amend the proposal to introduce measures such as the introduction of enhanced input tax recovery mechanisms for affected suppliers, transitional relief measures for existing investments and projects, targeted VAT relief for clean cooking and energy transition technologies, and development of a coherent long-term fiscal framework to support Kenya's clean energy transition objectives.

Committee Observation

The Committee agreed with the proposal by the Petroleum Institute of East Africa.

Clause 31(b)(i)

1530. Delete the proposal to preserve the affordability of digital payment services, enhance financial inclusion and support technology-enabled energy access models.

Committee Observation

The Committee acknowledged the concern raised by Petroleum Institute of East Africa, but recommended amendment of the clause to adopt a

broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 44

1531. Delete the proposal because it exposes taxpayers to the risk of double taxation by allowing KRA to recover principal tax from withholding agents where the tax has already been fully accounted for and paid by the income recipient.

Committee Observation
The Committee agreed with the stakeholder.

Clause 45

1532. Delete the proposal because it would expose taxpayers to premature recovery measures thereby undermining the fundamental right of appeal and weakens protection afforded to taxpayers under the principles of fair administrative action and natural justice. Alternatively, amend the proposal to provide safeguards including restriction of enforcement to undisputed tax portions only, automatic suspension of enforcement upon lodging of a valid appeal and clear timelines for determination of tax disputes among others.

Committee Observation
The Committee agreed with Petroleum Institute of East Africa.

New Proposal

1533. Amend Section 15(4) of the Income Tax Act to provide a transitional clause on how to account for tax losses originating from past periods to enhance legal certainty and uniformity in tax administration.

Committee Observation
This proposal was noted but not acceded to, as the Committee noted that resetting the clock on historical tax losses would create a massive revenue deficit, allowing large corporations to indefinitely defer corporate income tax. The Finance Act 2025 amendment deliberately capped the carry-forward period to stop companies from perpetually shielding their current profits using decades-old losses. Granting this sweeping concession completely neutralizes that policy objective and delays vital revenue mobilization for another five years. Furthermore, existing legal

frameworks already protect taxpayers against arbitrary retroactive application, making this costly structural carve-out fiscally unsustainable.

1534. Amend the Third Schedule to the Income Tax Act to review individual PAYE tax bands by expanding the lowest tax band threshold from KES 24,000 to KES 30,000, reducing the highest PAYE rate to 30% and increasing personal relief to KES 3,000. This would increase disposable income for employees and improve Kenya's competitiveness in attracting and retaining skilled labour among others.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

With regard to proposals on personal relief, the Committee observed that it had received many similar proposals on the adjustment of the Individual personal relief. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view of addressing the concerns of the stakeholders.

1535. Amend Section 17 of the VAT Act to introduce a provision allowing registered taxpayers to deduct input VAT incurred on taxable supplies made to the Kenya Defence Forces (KDF), Defence Welfare Services, National Intelligence Service (NIS) and the National Police Service (NPS). This would enable security agencies, performing critical national functions, a cost-efficient procurement framework that supports operational effectiveness by reducing the cost of supplies to the institutions.

Committee Observation

The Committee noted the proposal by Petroleum Institute of East Africa and undertook to consider it in future legislation.

1536. Amend the First Schedule to the VAT Act to exempt base oils and additives used in lubricant manufacturing from VAT at importation to eliminate the administrative inefficiencies including lengthy VAT refunds process on VAT paid on imported petroleum-based inputs, reduce the cost of production, enhance the global

competitiveness of Kenyan-manufactured lubricants and support the broader agenda of local value addition, industrial development and export growth.

Committee Observation

The Committee noted the proposal by Petroleum Institute of East Africa and undertook to consider it in future legislation.

1537. Review Section 42A of the Tax Procedures Act on VAT in light of the implementation of eTIMS and broader tax administration automation measures to exempt petroleum sector transactions from VAT withholding requirements, gradual phase-out of the VAT withholding regime for taxpayers fully onboarded onto eTIMS, adoption of risk-based compliance monitoring mechanisms leveraging eTIMS data analytics and streamlining of VAT administration to reduce unnecessary compliance and refund burdens. This would reduce the compliance burden on taxpayers, improve cash flow for businesses and align with global best practices which encourage digital compliance systems rather than withholding regimes.

Committee Observation

The Committee noted the proposal by Petroleum Institute of East Africa but noted the need for further consultations on the matter.

3.3.89 MILESTONE GAMES LIMITED (SPORTPESA)

Clause 2(b)

1538. Amend the proposal to delete 'interchange fees and merchant service fees' from the definition of "management or professional fee". This is because interchange fees and merchant service fees are neither management fees nor professional fees and should not be treated as such.

Committee Observation

The Committee noted the concerns raised by Milestone Games Limited but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

1539. Delete the proposed sub-clause (a)(vii) from the proposed definition of royalty because payment network fees, card scheme fees, interchange fees, assessment fees, processing fees and settlement fees are business service income and not royalties and thus, should continue to be treated as such for all tax purposes.

Committee Observation

The Committee agreed with Milestone Games Limited's proposal. It observed that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 2(d)

1540. Amend the proposal to redefine "withdrawals" because it captures promotional credits, fee bets, loyalty point conversions and platform-to-platform transfers, none of which were intended to be subjected to the WHT framework as follows:

"for online operators, the amount of money withdrawn by a customer from their betting or gaming wallet maintained by a person licensed under the Gambling Control Act, 2025, into the customer's mobile money account, bank account or other approved payment channel."

Committee Observation

The Committee noted the concerns raised by Milestone Games Limited. However, it observed that the proposed amendment only broadens the definition of "withdrawals" to ensure the uniform application of withholding tax across both online and land-based betting activities by resolving ambiguity that excludes land-based betting and gaming establishments that operate through cash and cash-equivalent instruments from the tax net, resulting in unequal tax treatment and revenue leakage

Clauses 2(e), 7(o), 17(a)(iii)(w), 17(b)(q) and 22(b)(ii)

1541. Delete the proposal. Instead, amend to reduce the existing 5% WHT to 3% WHT on winnings to preserve the integrity of the tax architecture while increasing the tax base.

Committee Observation

The Committee noted the concerns raised by Milestone Games Limited. However, it observed that the proposed amendment clarifies the tax treatment of winnings from prize competitions and lotteries, thereby promoting certainty and consistent application of the withholding tax framework. This is to close a gap in the tax framework created by the Finance Act, 2025, which inadvertently removed the legal basis for taxing winnings from prize competitions outside the betting and gaming sector, and resulted in revenue losses.

3.3.90 EAST AFRICA VENTURE CAPITAL ASSOCIATION (EAVCA)

Clause 31 (b)

1542. Amend the clause on paragraph 1, subparagraph (b) of Part II of the First Schedule to the VAT Act be amended as follows:

"(b) the issue, transfer, receipt or any other dealing with money, including —

(i) money transfer services,

(ii) accepting over the counter payments of household bills, and

(iii) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money."

1543. The proposed amendment will create level-playing field for all players in the financial services sector, discourage financial innovation and invention in the financial services sector, and improved traceability of transactions. For Kenya, a function-based VAT exemption covering all services essential to executing, routing, clearing, and settling payments, regardless of the provider's legal form, would modernize the VAT framework, reduce transaction costs, prevent multiple layers of taxation, and support financial inclusion and digitization.

Committee Observation

The Committee acknowledged the concerns raised by the East Africa Venture Capital Association, but recommended the amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36 (a) (xiii-xxxiii)

1544. Amend the clause to introduce a new clause in the Finance Bill that amends Section 2 of the Excise Duty Act in the definition of "import" by adding the following proviso:

"Provided that where the goods originate from the East African Community Partner States, and meet the East African Community Rules of Origin, the goods shall not be considered as import"

1545. From a regional integration perspective, the proposal may undermine the objectives of the EAC Customs Union Protocol, which seeks to promote free trade among Partner States and eliminate NTBs affecting intra-EAC trade.

Committee Observation

The Committee noted the proposal by the Association but noted the need for further consultations with the relevant stakeholders before making a decision on the matter.

Clause 45

1546. Delete the clause because the provision violates Articles 47 (Fair Administrative Action) and 50 (Fair Hearing) of the Constitution by effectively pre-empting the judicial outcome and allowing the Commissioner to proceed with enforcement action to recover tax from third parties even while an appeal is still pending.

Committee Observation

The Committee considered the concern raised by the Association and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 49

1547. Delete the clause because compressing timelines by counting non-working days imposes severe administrative friction on compliance teams.

Committee Observation

The Committee considered the concern raised by the Association and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 48

1548. Amend the clause to introduce a new subsection under Section 75 (5) stating that: *"Provided that where a tax dispute arises from data or assessments contained within a pre-populated tax return generated by the Authority, the burden of proof shall rest on the Revenue Authority to demonstrate the accuracy, structural integrity, and transmission reliability of the technological systems used to capture and populate that data."*

1549. Forcing a business to carry the exclusive legal burden of disproving an automated calculation generated by the state is a fundamental contradiction of fairness. If the revenue authority acts as the data aggregator and the author of the tax return, it must legally shoulder the responsibility of verifying its own source data before it issues a tax demand.

Committee Observation

The Committee acknowledged the concern raised by the Association, but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

New Proposal

Income Tax

1550. Amend Paragraph 72 of the Eighth Schedule by deleting the words:

"by a licensed Special Economic Zone developer, enterprise or operator"

and substituting therefor:

"by any person"

1551. The restriction dampens private capital inflow into capital-intensive SEZ developments, as non-licensed enablers, critical to project financing, property acquisition, and transfers, face unexpected tax costs.

Committee Observation

The Committee acknowledged the proposal by EAVCA, but noted that the proposal would substantially broaden the Capital Gains Tax exemption under Paragraph 72 of the Eighth Schedule beyond its original policy intent of incentivising licensed SEZ developers, operators, and enterprises that are subject to the regulatory framework and performance obligations of the SEZ regime. Extending the exemption to "any person" solely on the basis that the property is located within a gazetted SEZ would create an overly broad tax preference, resulting in significant revenue leakage and opportunities for speculative property transactions unrelated to productive investment or export-oriented activities. The current targeted

exemption appropriately links tax benefits to licensed entities that contribute directly to the objectives of the SEZ programme, and expanding it would be inconsistent with the National Tax Policy and the Government's commitment to rationalise tax expenditures and ensure incentives are targeted, transparent, and performance-based.

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Clause 16

1552. Delete the clause and the entire section 24 of the Income Tax Act because the existing provision is a retrogressive provision that grants the Commissioner wide discretionary powers to deem the distribution of dividends out of profits, notwithstanding the commercial realities and operational needs of a taxpayer. The proposal undermines the principles of certainty, predictability, and fairness in taxation, which are fundamental components of a sound tax system. The provision is potentially unconstitutional as it amounts to an indirect deprivation of property contrary to Article 40 of the Constitution of Kenya, which guarantees the property right.

Committee Observation

The Committee acknowledged the concerns raised by the Association, but did not agree with the proposal to delete the entire clause. The Committee observed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18

1553. Delete the proposal because the proposed timeline may compel taxpayers to file returns on the basis of unaudited, provisional, or estimated financial information, which may later require amendment, thereby undermining the objective of finality and accuracy in tax reporting.

Committee Observation

The Committee acknowledged the Association's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the

Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19

1554. Delete the amendment because the proposed reduction of the self-assessment filing period for individuals from six months to four months represents a significant contraction of the statutory compliance window under Section 52B. The proposed timeline risks undermining the accuracy and integrity of self-assessment returns, as taxpayers may be compelled to file based on incomplete or provisional information in order to meet the statutory deadline.

Committee Observation

The Committee acknowledged the Association's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23

1555. Delete the amendment as it introduces substantial ambiguity regarding the operation and scope of the indirect disposal provisions, particularly when read together with the preceding provisions of the paragraph. As currently drafted, the amendment risks creating overlapping or inconsistent interpretive outcomes that may result in uncertainty for taxpayers.

Committee Observation

The Committee acknowledged the concerns raised by Association, but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation.

3.3.91 OLD MUTUAL PLC

Income Tax Act

1556. Amend Section 15(4) and (5) of the Income Tax Act to include a transitional clause clarifying the treatment of tax losses incurred prior to the Finance Act 2025 amendment as follows:

"Provided that any deficit incurred by a person as at 1st July 2025 shall be deemed to have been incurred in that year of income."

1557. The reintroduction of the five-year cap in the Finance Act 2025 did not include transitional provisions. This creates uncertainty for taxpayers with accumulated losses from prior years. The proposal supports economic growth by protecting capital-intensive sectors, avoiding premature taxation before long-term investments mature, and ensuring businesses can plan sustainably over multi-year investment cycles. It promotes fiscal stability by ensuring predictable revenue flows for government, preventing sudden balance-sheet shocks for regulated financial institutions, and helping maintain stable solvency and liquidity ratios.

Committee Observation

The Committee noted the proposal by Old Mutual PLC and undertook to consider it in future legislation.

3.3.92 TOURISM INDUSTRY

Tax Procedures Act

1558. Amend the clauses under the Act to create a conducive tourism business environment. New tourism companies are likely to face higher compliance obligations from the beginning of their operations. Businesses may now need: proper bookkeeping systems, digital invoicing, tax registration and filing payroll records and formal payment channels. Tourism businesses often depend on seasonal bookings and advance payments. Stricter tax administration could affect liquidity.

Committee Observation

The Committee noted the proposal by the Tourism Industry and undertook to consider it in future legislation.

Clause 31 (b) (ii)

1559. Amend the clause because modern tourism businesses increasingly rely on digital platforms and the Finance Bill's focus on the digital economy means online revenues and digital payment systems may receive closer monitoring from tax authorities. This may increase operational transparency but also raise compliance costs. Even where taxes are not directly imposed on tourists, businesses may pass operational costs to customers.

Committee Observation

The Committee acknowledged the concerns raised by the Tourism Industry, but observed that the proposal closes loopholes that allow misclassification of taxable services as exempt tour packages, thereby enhancing compliance, promoting fairness, and ensuring consistent application of the law. It therefore proposed to retain the provision as is.

3.3.93 OXFAM KENYA

Clause 2(b)

1560. Delete or expressly exclude fees arising solely from payment processing, settlement, clearing, and card network operations from the definition of management or professional fees.

1561. Additionally, Oxfam Kenya proposed that the Bill introduce thresholds or exemptions for low-value transactions and small merchants; Require Treasury to undertake and publish a financial inclusion and economic impact assessment; and clarify the scope of affected fees and transactions.

1562. The stakeholder submitted that interchange fees and merchant service fees are not payments for advisory, managerial, consultancy, or technical services. They are charges arising from the operation of payment infrastructure. Their inclusion risks increasing the cost of electronic transactions, undermining financial inclusion objectives, and creating distortions in the digital payments ecosystem.

Committee Observation

The Committee noted the concerns raised by the Oxfam Kenya, but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c) (vii)

1563. Amend the Clause by inserting the following provision: -

'*Where a payment to a non-resident combines a royalty element and a service element and the royalty element cannot be separately identified, the Commissioner shall have the power to determine a reasonable allocation of the payment to the*

royalty element, having regard to the relative value of each component, and the royalty element so determined shall be subject to withholding tax.'

1564. Oxfam Kenya submitted that this proposal aligns with OECD Pillar One principles on profit attribution for digital business.

Committee Observation

The Committee noted the concerns raised by the Oxfam Kenya, but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 4

1565. Insert a new Subsection 2A under the proposed Section 6B to read as follows: -

"A non-resident person required to register under subsection (2) shall, at the time of registration, disclose the identity of the ultimate beneficial owner of the property in the prescribed form, and shall update that disclosure within 30 days of any change of beneficial ownership."

1566. Further, the proposed Section 6B should be amended to: -

i. Require the Commissioner to publish on a publicly accessible register the names of non-resident persons registered under this section and the general category of property (commercial or residential), without disclosing precise addresses for security reasons.

ii. Direct the Cabinet Secretary to gazette the simplified registration framework within 90 days of enactment.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya, but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 12

1567. Amend subsection 1B of Section 18D of the ITA by lowering the Country-by-Country Reports threshold from Ksh 95 billion to Ksh 25 billion consolidated group turnover. The stakeholder cited that this better reflects the scale of multinational operations in Kenya. The stakeholder submitted that the OECD's review of Country-by-Country Reports implementation notes that the EUR 750 million threshold was calibrated for advanced economies, and developing countries should adjust it downward.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya, but observed that the proposed amendment cleans up Section 18D by correcting cross-references and clarifying Country-by-Country reporting obligations for multinational enterprise groups, thereby enhancing legal certainty and supporting consistent application of the reporting framework. The Committee further noted that the reporting threshold is aligned with internationally accepted OECD/G20 standards, and that lowering the threshold or requiring publication of reporting information could increase compliance burdens and raise taxpayer confidentiality concerns.

1568. Amend Section 18D to insert a new sub-section requiring the Commissioner to publish anonymized, aggregated Country-by-Country Reports data at the sector level within 12 months of each filing cycle.

Committee Observation

1569. The Committee acknowledged the concerns raised by Oxfam Kenya, but observed that the proposed amendment cleans up Section 18D by correcting cross-references and clarifying Country-by-Country reporting obligations for multinational enterprise groups, thereby enhancing legal certainty and supporting consistent application of the reporting framework. The Committee further noted that the reporting threshold is aligned with internationally accepted OECD/G20 standards, and that lowering the threshold or requiring publication of reporting information could increase compliance burdens and raise taxpayer confidentiality concerns.

1570. Amend the ITA to require the Commissioner, as a minimum, to publish a list of multinational enterprise groups that have filed Country-by-Country Reports in Kenya in a given year, without disclosing confidential financial data, so as to enable accountability monitoring by civil society.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya, but observed that the proposed amendment cleans up Section 18D by correcting cross-references and clarifying Country-by-Country reporting obligations for multinational enterprise groups, thereby enhancing legal certainty and supporting consistent application of the reporting framework. The Committee further noted that the reporting threshold is aligned with internationally accepted OECD/G20 standards, and that lowering the threshold or requiring publication of reporting information could increase compliance burdens and raise taxpayer confidentiality concerns.

Clause 15

1571. Delete the proposal as Section 23 of the ITA forms the primary guide on General Anti-Avoidance Rule (GAAR).

Committee Observation

The Committee acknowledged the concern raised by Oxfam Kenya but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for administrative consistency. Consequently, the proposed additional safeguards and amendments were not considered necessary.

Clause 23

1572. Amend the Eighth Schedule to:-

i. Increase the CGT rate on property transfers from 5% to 15% for individuals and 15% for companies, phased in over two fiscal years to prevent market disruption

ii. Extend CGT to gains on the disposal of listed securities where the seller held a stake exceeding 15% of the company's share capital at any time during the 12 months preceding disposal, consistent with the threshold already applied in the Eighth Schedule for unlisted companies

iii. Introduce an inflation-indexation mechanism for the cost base of assets held for more than five years, to ensure that nominal gains arising purely from inflation are not taxed.

1573. Oxfam Kenya observed that the 5% CGT rate on property and an exemption on listed securities create a perverse incentive structure where the wealthiest households, who hold the majority of property and listed securities, pay the lowest effective tax rates on their most significant wealth-generating activities.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation.

Clause 24(b)(i)

1574. Require Treasury and KRA to provide a detailed public revenue impact assessment demonstrating the net fiscal effect of the proposal, including models comparing the current 37.5% regime against the proposed 30% corporate income tax plus 15% repatriated income tax structure. Parliament should require disclosure of the projected investment benefits and the expected impact on extractive sector revenue mobilization.

1575. Consideration should be given to retaining higher effective taxation where extractive industries generate significant economic rents from the exploitation of public natural resources.

1576. Parliament should further assess whether ring-fencing, anti-avoidance safeguards and beneficial ownership disclosure mechanisms are sufficient to prevent profit shifting and base erosion within the sector.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya, and observed that Parliament is in the process of establishing a framework of Post Legislative Scrutiny.

Clause 31 (a)(ix)
Paragraph 160

1577. Delete the proposal and retain zero rating for inputs and raw materials purchased or imported for the manufacture of animal feeds.

Committee Observation
The Committee agreed with the proposal by Oxfam Kenya.

Paragraph 161

1578. Delete the proposal and retain pharmaceutical manufacturing inputs as zero-rated. The switch from zero-rated to exempt will increase the cost of inputs.

Committee Observation
The Committee agreed with Oxfam Kenya's position.

Paragraph 163

1579. Delete the proposal and retain zero-rating for the supply of imported or locally purchased telephones.

Committee observation
The Committee agreed with Oxfam Kenya.

1580. Where exemption is deemed necessary for other green energy goods (electric buses, bicycles, batteries), provide a compensatory input tax rebate scheme for manufacturers registered under the green economy incentive framework**.**

Committee Observation
The Committee agreed with the stakeholder.

Clause 32(d)(e)(f)(g)(h)

1581. Implement a sunset provision for paragraphs 30 to 34 (green energy products), retaining zero-rating for five years and automatically converting to exemption thereafter. This will give the industry time to scale and become self-sustaining before losing input tax recovery.

Committee Observation
The Committee noted the proposal by Oxfam Kenya and undertook to consider it in future legislation.

Clause 32 (i)

1582. Do not delete paragraph 35 (BEV stoves). Instead, tighten the scope of the exemption to cover only stoves sold to end consumers (i.e., households) and exclude commercial distributors to prevent misuse.

Committee Observation
The Committee agreed with the proposal by Oxfam Kenya.

Clauses 34 and 35

1583. Amend the provisions to provide that excise liability is at importation or factory gate, which is administratively simpler and more enforceable than activation

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36 (a)(i)

1584. Amend the proposed rate of excise on telephones to 15% from the proposed 25% since this represents a proportionate increase that balances revenue needs with affordability for low-income users.

Committee Observation

The Committee agreed with the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services.

1585. Additionally, introduce a price band for excise duty exemption for mobile phones with a retail price below Kshs 8,000, targeting basic and entry-level smartphones used predominantly by lower-income Kenyans.

Retain the "imported" qualifier for the 25% rate tier, reserving it for premium imported devices (retail price above Kshs 50,000) while domestically manufactured devices benefit from a lower rate.

Committee Observation

The Committee noted the proposal by Oxfam Kenya but noted need for further consultations with stakeholders on the matter.

Clause 36(a)(xxxv)

1586. Delete the proposal seeking to impose a 5% excise duty on Coal. Instead, introduce phased application of excise duty as below:

At 2% in Year 1 (effective July 2026),

3.5% in Year 2 (July 2027), and

5% in Year 3 (July 2028)

1587. The stakeholder held that this would give small enterprises time to adapt.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya, but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

1588. Additionally, ring-fence 30% of coal excise revenue to capitalize a Green Transition Fund for Micro and Small Enterprises, administered by the Kenya National Chamber of Commerce and Industry under Treasury oversight. Specifically, it will be to subsidize the acquisition of alternative energy equipment (gas, electric, or solar-powered kilns and furnaces) for Jua Kali artisans.

Committee Observation

The Committee noted the proposal by Oxfam Kenya, but noted the need for further consultations with stakeholders on the matter.

1589. Finally, exempt coal purchases below 5 metric tonnes per transaction where the buyer is a registered micro-enterprise with annual turnover below Ksh. 1 million from the excise duty. The exemption should apply for the first three years of implementation.

Committee Observation

The Committee noted the proposal by Oxfam Kenya, but noted the need for further consultations with stakeholders on the matter.

Clause 41

1590. Amend the proposed Section 18A of the TPA to include a reverse burden of proof provision as follows:

> *Once the Commissioner identifies a transaction as meeting at least two of the hallmarks of a potentially abusive arrangement (as defined in BEPS Action 12 on mandatory disclosure rules), the burden shifts to the taxpayer to demonstrate that the transaction was not primarily tax-motivated*

1591. Oxfam Kenya submitted that a reverse burden of proof on hallmarked transactions is used by the UK, South Africa, Canada, Australia, and India the most tax-efficient common law jurisdictions. It does not penalize genuine commercial transactions; it merely requires taxpayers with complex arrangements to prove their legitimacy, rather than requiring KRA to discover their illegitimacy.

Committee Observation

The Committee acknowledged the Oxfam Kenya's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. Consequently, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and to clarify that the rule applies prospectively to arrangements entered into after commencement.

1592. Amend the proposal to expand the information sources in Section 18A(2) to include beneficial ownership data from the Business Registration Service, real estate transaction data from the Lands Registry, and offshore asset declarations to be introduced under the proposed new clauses.

Committee Observation

The Committee acknowledged the proposal. However, it expressed concern on the possible breached of the Data Protection Act and proposed to consider it in future legislation.

Clause 43

1593. Amend the proposal to provide that the amnesty shall apply in full only where the principal tax due does not exceed Kshs 10 million.

Above Kshs 10 million, a sliding scale should apply:

75% waiver for principal tax between Kshs 10–50 million,

50% waiver for Kshs 50–200 million, and

25% waiver for principal above Kshs 200 million.

1594. The stakeholder cited that progressively capping the amnesty benefit for large debtors while preserving it in full for small and micro-enterprises protects the revenue base while maintaining the humanitarian rationale for amnesty.

Committee Observation

The Committee noted that the waivers and timelines provided in the Bill are fair and sufficient. However, the Committee observed that the Amnesty program should not be extended beyond the stipulated timelines to deter non-compliance.

1595. Oxfam submitted that no further extensions should be made beyond 31 December 2026. The Cabinet Secretary should be required to publish a report to the National Assembly within 90 days of the amnesty window closing, detailing the number of beneficiaries, the total principal collected, and the total interest/penalties waived, disaggregated by taxpayer category (individual/corporate) and industry sector. Oxfam stated that public reporting on amnesty utilisation is consistent with Kenya's constitutional requirements for transparency in public finance management.

Committee Observation

The Committee agreed with Oxfam Kenya.

1596. Introduce a blackout period of five years during which any taxpayer who benefitted from the amnesty cannot benefit from another amnesty, to deter strategic non-compliance. The stakeholder submitted that the wealthiest Kenyans and corporations disproportionately benefit from state forbearance in tax enforcement. Repeated amnesties without conditions deepen this asymmetry.

Committee Observation

The Committee acknowledged the proposal by Oxfam Kenya, but noted that the tax amnesty programme is temporary measure to encourage compliance.

Clause 53(a)

1597. Delete the proposal and retain the 20% as is in the existing Act.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya but noted that there is need to ensure that the Kenya Revenue Authority is adequately resourced to enhance revenue collection and strengthen tax administration. In view of this, the Committee agreed to delete the proposal.

Clause 53(b)

1598. Delete the proposal. Oxfam Kenya submitted that reducing informant rewards weakens the community-based enforcement ecosystem at the very time it needs strengthening.

1599. Additionally, the stakeholder submitted that instead of using a flat rate, the Bill should introduce a tiered reward as follows:

20% on the first Ksh 5 million of recovered tax per case;
15% on Ksh 5–50 million; and
10% on recovered tax above Ksh 50 million

Oxfam opined that this would limit the absolute windfall for any single informant on very large cases while maintaining strong incentives across the range.

Committee Observation

The Committee acknowledged the concerns raised by Oxfam Kenya and noted that there is need to undertake further empirical studies on the efficiency of the current enforcement ecosystem to establish its weak areas and how to make it more efficient.

New proposal – Miscellaneous Fees and Levies Act
Section 7(7)

1600. Amend the Act to specify that a minimum of 5% of all customs and excise enforcement fines shall be ring-fenced for KRA's investigation and intelligence capacity.

Committee Observation
The Committee noted the proposal by Oxfam Kenya but noted that the Kenya Revenue (KRA) Act already provides for building of capacity and training of KRA Officers.

New Proposals – Income Tax Act
Proposed new Part XA: Net Wealth Tax

1601. Amend the Income Tax Act by inserting a new Part XA with the following features:

(a) Taxable persons: Every individual resident in Kenya whose net taxable wealth (as defined below) exceeds Kshs 100 million as at 31 December of each year.

(b) Net taxable wealth: The aggregate value of all assets beneficially owned (directly or through entities the taxpayer controls) minus all bona fide liabilities including immovable property in Kenya, listed and unlisted shares in Kenyan companies, bank deposits, virtual assets, motor vehicles above Kshs 5 million in value, aircraft, watercraft, works of art above Kshs 1 million, and offshore

assets declared under the proposed Offshore Asset Declaration Scheme (see New Clause C).

(c) Rate: 1% per annum on net taxable wealth between Kshs 100 million and Ksh 1 billion; 2% per annum on net taxable wealth between Kshs 1 billion and Ksh 5 billion; 3% per annum on net taxable wealth exceeding Kshs 5 billion.

(d) Valuation: The Cabinet Secretary for National Treasury, in consultation with the Valuers Registration Board, shall prescribe standardised valuation methodologies for each asset class, updated annually.

(e) Anti-avoidance: Transfers of assets to spouses or minor children within 3 years of the wealth tax commencement date shall be deemed to remain in the transferor's estate for wealth tax purposes.

(f) Instalment payments: For taxpayers whose wealth is predominantly illiquid (e.g., unlisted company shares, agricultural land), the Commissioner may grant a deferral of up to 3 years with interest at the prevailing Central Bank rate.

(g) Revenue allocation: 50% of net wealth tax revenue shall be ring-fenced to the Universal Health Coverage Fund under the Social Health Insurance Act; 30% to the Education Quality Improvement Fund; and 20% to the Social Protection Fund for cash transfers to households below the poverty line.

1602. Kenya's current tax system is "lazy and regressive," over-relying on VAT and PAYE that hit low-income earners hardest while leaving the accumulated wealth of the super-rich largely untaxed

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Proposed new Part XB: Inheritance and Gift Tax

1603. Amend the Income Tax Act to insert a new Part XB with the following features:

(a) Taxable event: The transfer of any property by gift, bequest, or inheritance where the total market value of assets transferred by any one transferor to any one transferee exceeds Kshs 10 million in any calendar year or upon death.

(b) Rates: 10% on the value between Kshs 10 million and Kshs 50 million; 20% on the value between Kshs 50 million and Kshs 200 million; 30% on the value exceeding Kshs 200 million.

(c) Exemptions: Transfers between spouses (up to a lifetime limit of Kshs 100 million); transfers to registered charities; transfers of the family home where it is the primary residence of the surviving spouse or dependant children; and transfers

of agricultural land to direct descendants where the land is used for food production (up to 50 acres).

(d) Valuation: Fair market value at the date of transfer, as determined by a registered valuer.

(e) Revenue allocation: Ring-fenced 100% to the National Bursary Fund and county education authorities for scholarship awards to learners from the bottom two income quintiles.

1604. Ring-fencing inheritance tax revenues for education scholarships creates a direct, visible, and morally compelling connection between taxing inherited privilege and expanding opportunity for the poor a framing that builds popular support for the tax. The proposed thresholds mean the tax affects only the wealthiest families (less than 2% of estates) while directly benefiting the poorest children.

Committee Observation

The Committee noted the proposal by Oxfam Kenya and undertook to consider it in future legislation.

Third Schedule – Head B

i. A new band of 37.5% applying to monthly employment income exceeding Ksh 2 million (i.e., annual income exceeding Ksh 24 million).
ii. A new band of 40% applying to monthly employment income exceeding Kshs 5 million (i.e., annual income exceeding Kshs 60 million).
iii. These bands should also apply to self-employment income computed on the same schedule.
iv. The threshold for the highest band should be indexed to the annual rate of consumer price inflation to prevent bracket creep from eroding its effectiveness over time.

1605. The stakeholder submitted that the top 1% of Kenyans controlling 78% of financial wealth are predominantly high-income earners.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of STRC.

New Proposal – Tax Procedures Act

1606. New Sections 6E and 6F as follows:

Section 6E: Offshore Asset Declaration

Every resident individual or entity with net taxable wealth exceeding Ksh 50 million shall file an annual Offshore Asset Declaration with the Commissioner, disclosing: (a) all bank accounts held outside Kenya; (b) all companies, partnerships, trusts, or foundations in which the person holds a beneficial interest of 10% or more, wherever incorporated; (c) all immovable property situated outside Kenya; (d) all financial investments (securities, bonds, derivatives) held through non-resident brokers or custodians; and (e) all virtual assets held in non-Kenyan wallets or exchanges.

Section 6F: Voluntary Disclosure Programme

A one-time voluntary disclosure window of 18 months from enactment within which persons with undeclared offshore assets may disclose, pay the applicable income tax on income derived therefrom, and benefit from a waiver of penalties and interest but not principal tax. After the window closes, non-disclosure shall attract a penalty of 25% of the value of the undisclosed assets, in addition to all applicable taxes, interest, and penalties.

1607. The proposed offshore asset declaration scheme is directly analogous to frameworks operating successfully in South Africa (Common Reporting Standard), India (Black Money Act), and the UK (Unexplained Wealth Orders). It creates the data foundation that both the proposed wealth tax (New Clause A) and the tax avoidance provision that Section 18A and Clause 41 require to be effective. Kenya's ratification of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters creates the international legal framework for exchange of information; domestic law must align.

Committee Observation

The Committee noted the proposal by Oxfam Kenya but noted the need for further research on the framework as well as consultations with stakeholders.

New Proposal – Rating Act

1608. Amend the Rating Act (Cap. 267) by inserting a National Land Value Surcharge applicable as follows:

(a) Coverage: All urban land (as defined under the Physical and Land Use Planning Act) with a current government valuation exceeding Ksh 5 million.

(b) Rate: 0.5% per annum on land value between Ksh 5 million and Ksh 50 million; 1% per annum on land value between Ksh 50 million and Ksh 500 million; 2% per annum on land value exceeding Ksh 500 million.

(c) Idle land surcharge: Land that has not been developed, leased, or actively used for productive purposes for more than 3 years shall attract an additional surcharge of 1% per annum.

(d) Administration: The surcharge shall be administered by KRA (not county governments), with 40% of proceeds transferred to the originating county for local infrastructure, and 60% retained by the national government for affordable housing and urban upgrading Programmes.

(e) Valuation: A mandatory nationwide urban land valuation exercise shall be completed within 24 months of enactment, updating all urban land values to current market levels.

1609. Land value taxation is widely recognized as the most efficient and least distortionary form of wealth taxation. Unlike a tax on capital or income, a Land Value Tax cannot be avoided by reducing productive activity; it can only be minimized by using land productively.

Committee Observation

The Committee noted the proposal by Oxfam Kenya but noted that this did not form part of the Finance Bill, 2026.

New proposal – Public Finance Management Act

1610. Section 15A: Social Protection Floor Guarantee

(a)The minimum annual budget allocation for social protection (cash transfers, school feeding, elderly persons' allowances, disability benefits) shall not be less than 1% of GDP in any financial year.

(b) In the event of fiscal consolidation or budget cuts, social protection allocations shall be the last category to be reduced, and any reduction below the 1% floor shall require a special resolution of the National Assembly supported by a two-thirds majority.

(c) The Cabinet Secretary for National Treasury shall publish an annual Social Protection Expenditure and Impact Report within three months of the end of each financial year, detailing actual spending against the floor, the number of beneficiaries reached, and the estimated impact on poverty reduction. This report shall be tabled before both Houses of Parliament.

1611. Oxfam submitted that statutory social protection floors are in place in South Africa, Rwanda, Botswana, and Namibia, and have demonstrably reduced poverty and inequality in those countries. A statutory floor creates accountability and predictability for the poorest Kenyans, transforming progressive taxation from a promise into a mechanism.

Committee Observation

The Committee noted the proposal by the stakeholder but noted that the proposal was not within the purview of the Finance Bill, 2026.

3.3.94 THE INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

Clause 31 (a) (i)

1612. Delete the proposal to prevent an immediate 16% capital expenditure shock on aircraft acquisition. This tax on leasing has already triggered the catastrophic deregistration of 74 aircraft as international lessors flee the Kenyan market. Furthermore, chronic delays in tax refunds will indefinitely lock up airlines' vital operational cashflows in government bureaucracy. Ultimately, as the only country in the region charging 16% VAT on aviation services, Kenya will permanently lose its competitive edge to neighbors like Tanzania and Ethiopia.

Committee Observation

The Committee acknowledged the concerns raised by the International Air Transport Association (IATA) and agreed that removing the VAT exemption on aircraft, helicopters, and related equipment would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial aviation services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (a) (iii)

1613. Delete the proposal as direction-finding compasses and instruments are an integral part in the aviation industry and charging VAT on their acquisition would deal a big blow to the industry, making it unnecessarily expensive, for both domestic and international travel.

Committee Observation

The Committee acknowledged the concerns raised by IATA and agreed that removing the VAT exemption on direction finding compasses and instruments and appliances for aircraft would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial aviation services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (a) (v)

1614. Delete the proposal as it will increase operational cost, threaten safety and maintenance standards due to high costs and disproportionate impact on smaller operators.

Committee Observation

The Committee acknowledged the concerns raised by IATA and agreed that removing the VAT exemption on aircraft, helicopters, and related equipment would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial aviation services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 55 (a) (i)

1615. Delete the proposal as the imposition of 2.5 % IDF and 2 % RDL will act as a steep financial barrier, drastically inflating the upfront cost of helicopters and light aircraft. This heavy capital burden directly squeezes utility operators who provide critical, thin-margin services like medical evacuations, humanitarian relief and flight training which in turn damages the country's competitiveness as a regional aviation and maintenance hub.

Committee Observation

The Committee noted the concerns of IATA but noted that it would occasion a revenue dip.

3.3.95 KENYA ASSOCIATION OF AIR OPERATORS (KAAO)

Clause 31 (a) (i)

1616. Delete the proposal as the imposition of a 16% VAT on Chapter 88 importations creates a severe capital shock that destroys the competitiveness of Kenyan aviation. This tax significantly increases total ownership costs, forcing operators to pass the burden directly to consumers through a 10% to 15% increase in ticket prices and cargo tariffs.

Committee Observation.

The Committee acknowledged the concerns raised by the Kenya Association of Air Operators (KAAO) and agreed that removing the VAT exemption on aircraft, helicopters, and related equipment would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and

commercial aviation services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (a) (iii)

1617. Delete the proposal as the introduction of a 16% VAT on direction-finding compasses and aircraft instruments will significantly raise the cost of aircraft maintenance and modernization, affecting safety.

Committee Observation

The Committee acknowledged the concerns raised by KAAO and agreed that removing the VAT exemption on direction finding compasses and instruments and appliances for aircraft would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial aviation services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (a) (v)

1618. Amend the proposal by deleting the word 'aircraft' and including the words 'all goods and parts' as the risk includes increased costs for the entire aviation sector due to VAT on aircraft spare parts and other goods of chapter 88. This has a direct impact on costs of maintenance and the well-established Maintenance, Repair and Overhaul (MRO) business in the country, which can quickly move to neighboring jurisdictions.

Committee Observation

The Committee acknowledged the concerns raised by KAAO. However, it noted that removing the VAT exemption on aircraft, helicopters, and related equipment would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial aviation services. The Committee therefore recommended deletion of the proposal.

Clause 55 (a) (i)

1619. Delete the proposal as the Removal of exemptions for tariff headings 8802.11.00, 8802.12.00 and 8802.20.00, together with restrictions on Chapter 88 goods, will subject helicopters and light aircraft to Import Declaration Fees (2.5%) and Railway Development Levy (2%), increasing import costs by approximately 4.5% of customs value, which costs will be passed to the consumer.

Committee Observation

The Committee noted the concerns of KAAO and resolved to delete the proposal in the Bill.

Clause 55 (b) (i)

1620. Delete the proposal as the additional 2% RDL on all aircraft, spacecraft and parts thereof including engines creates an untenable cost structure to all aviation related operators, who may choose to outsource maintenance to countries with lower taxes, redirecting investment and jobs away from Kenya's MRO sector.

Committee Observation

The Committee noted the concerns of KAAO and resolved to delete the proposal in the Bill.

3.3.96 GAMBLING REGULATORY AUTHORITY.

Clause 2 (e)

1621. Delete the proposal as the collection of taxes on winnings in gambling operations being reintroduced from 2024/25 Financial Year is impracticable.

Committee Observation

The Committee acknowledged the proposal made by the Gambling Regulatory Authority but resolved to harmonize taxation on betting.

New Proposal

Section 10 (d)(ii) of ITA

1622. Delete the 20% WHT on prize competition reintroduced from 2024/25 Financial. This should also apply to all short-term lotteries. They submitted that the collection of 20% WHT on winnings for prize competition reintroduced from 2024/25 Financial year is impracticable. Prize competition is a marketing promotion and there is no stake waged on the activity. Enforcement of the collection of tax on physical products, i.e., household goods, electronics, shopping vouchers, and services, i.e., spa treatment, car servicing, won by a player, is practically not enforceable.

Committee Observation

The Committee noted the proposal by Gambling Regulatory Authority and undertook to consider it in future legislation as the provision requires more time to study the patterns and establish its impact in the economy.

Section 2(c) in Part III of ITA

1623. Amend to simplify definition of deposits to cash deposit to a punters wallet from any source. The converted value of cash equivalent may not be 1 for 1 and may also arise from allowable promotions and free bets. This will ensure taxes are certain and simple and it will give a clearer description of cash equivalent in gambling context to both operators and the players.

Committee Observation

The Committee noted the proposal by Gambling Regulatory Authority and undertook to consider it in future legislation.

3.3.97 M-KOPA MOBILITY KENYA LIMITED

Clause 31(a)(ix) 163

1624. Amend the proposal to extend VAT exemption to components, raw materials, spare parts and production inputs used in local assembly, consistent with the proposed output exemption as exempting only outputs creates unrecoverable input VAT costs that compound through mark-ups and excise taxes, making locally manufactured phones more expensive than imported finished phones. A consistent input-output VAT exemption removes this imbalance and supports the Government's goal of maintaining affordability and competitiveness in local manufacturing.

Committee Observation

The Committee considered the concerns raised by M-kopa Mobility and recommended deletion of the proposal.

Clause 32(d)

1625. Delete the proposal as it will increase production costs for local manufacturers and assemblers because input VAT on components and materials would become non-recoverable. These additional costs would be passed on to consumers, particularly PAYGO boda boda riders who already have limited financing options, making electric motorcycles less affordable. Alternatively, where the transition to VAT exempt status is retained, extend equivalent VAT exemption treatment to all production inputs, components, batteries and assembly materials used in the local manufacture or assembly of electric motorcycles, so that local assemblers are not structurally disadvantaged relative to importers of finished goods. Additionally, introduce phased implementation measures or sector-specific transitional relief to mitigate immediate affordability and financing impacts on end users.

Committee Observation

The Committee agreed with M-Kopa Mobility Kenya Limited's proposal.

Clause 32(f)

1626. Delete the proposal because it will prevent recovery of input VAT incurred across battery production and importation costs. For local assemblers, this means a significant portion of the production cost base becomes more expensive without any corresponding increase in output pricing leverage, given the competitive and affordability-sensitive nature of the market. Alternatively, where VAT exemption is

applied to lithium-ion batteries, clarify that input VAT incurred on components and materials used in the production or importation of EV batteries is fully recoverable, so as not to embed irrecoverable VAT costs within the most significant single cost component of an electric motorcycle.

Committee Observation
The Committee agreed with M-Kopa Mobility Kenya.

Clause 34, 35 and 36(a)(i)

1627. Amend the proposals to exclude locally assembled phones from excise duty, retaining excise on imported finished phones only. Further, on activation framework: publish detailed operational regulations, developed in consultation with industry, before enforcement commences to ensure strong compliance. This is because locally assembled phones are already registered through IMEI tracking, making additional activation-based excise measures unnecessary for local manufacturers. Applying the framework only to imported devices would achieve the Government's objective more efficiently while avoiding unnecessary compliance burdens. Clear operational regulations are also needed before implementation.

Committee Observation
The Committee acknowledged the concerns raised by M-Kopa Mobility Kenya Limited and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 55(a)(ii) and (b)(ii)(xix)

1628. Amend the proposals to extend the IDF and RDL exemption proposed for imported finished phones to components, raw materials and production inputs used in local assembly as it exempts imported finished phones from IDF and RDL but does not extend relief to assembly inputs. A locally assembled device therefore bears IDF and RDL across the entire production chain while an imported finished phone benefits from exemption at the border, a structural cost imbalance that directly weakens domestic assembly competitiveness.

Committee Observation

The committee noted the concerns of M-Kopa Mobility Kenya Limited and resolved to delete the proposal in the Bill

Clause 26 and 27

1629. Amend the proposals to clarify that distinct financing and credit charges under PAYGO and regulated asset-financing arrangements are not part of the VATable consideration for the underlying supply of goods, irrespective of legal form or structure. Further, on input VAT reversal: Permit progressive utilisation-based adjustment of input VAT attributable to inventory, raw materials, components and work-in-progress held at the transition date, rather than requiring immediate full reversal upon transition to VAT exempt status. This is necessary given that PAYGO financing involves upfront costs that are recovered over time, while VAT rules that only exempt formally registered hire purchase arrangements create inconsistent tax treatment for similar financing models. Additionally, immediate input VAT reversal on existing stock would place significant working capital pressure on assemblers with long production cycles and large inventories.

Committee Observation

The Committee acknowledged the concern raised by M-Kopa Mobility Kenya Limited, but observed that the proposed amendment clarifies the VAT treatment of financial charges by limiting the exclusion to agreements regulated under the Hire Purchase Act, while expressly ensuring that financial charges are included in the taxable value where appropriate to prevent avoidance and ensure consistent VAT treatment of hire purchase arrangements. The Committee further noted that the amendment is intended to address existing ambiguity that has allowed taxpayers to structure sales agreements to resemble hire purchase arrangements and shift value into non-taxable finance charges, thereby reducing output VAT and creating VAT leakage through aggressive contractual structuring and inconsistent application of the law. In view of this, the Committee recommended that the clause be retained as is.

New Proposal

i. Amend the Second Schedule to the VAT Act to zero-rate the supply of electric three-wheelers under tariff headings 8703.40.00, 8703.50.00, 8703.60.00, 8703.70.00 and 8703.80.00, including CKD and SKD kits, sub-assemblies and components purchased by licensed assemblers and manufacturers.
ii. Amend the First Schedule to the Excise Duty Act to exclude electric three-wheelers under the same tariff headings from excise duty. To safeguard policy

integrity, VAT and excise duty reliefs should be restricted to authorised assemblers and manufacturers.

1630. Electric tuk-tuks face the same affordability and financing challenges as electric motorcycles and operate within the same urban transport economy. Zero-rating and excise exemptions help reduce upfront costs, while PAYG financing improves access for operators. Excluding electric tuk-tuks from the incentive framework limits adoption despite their economic and environmental benefits.

Committee Observation
The Committee noted the proposal by M-Kopa Mobility Kenya Limited and undertook to consider it in future legislation.

3.3.98 EAST AFRICA DEVICE ASSEMBLY KENYA LIMITED (EADAK)

Clause 31 (a) (ix)163, Clause 32 (c)

1631. Delete the proposal and retain the zero-rated VAT status for locally assembled and manufactured mobile phones instead of classifying them as VAT-exempt supplies. Combined tax changes could increase phone prices by ~40%, making local manufacturing uncompetitive compared to imports. Removal of VAT offset forces businesses to absorb significant cash flow strain, despite large pending VAT refunds. The changes risk loss of 700+ direct jobs (scalable to 1,000) and multiple indirect jobs across the supply chain. Additionally, this will curtail technical skills transfer and weaken Kenya's ambition to become a regional electronics manufacturing hub.

Committee Observation
The Committee agreed with the stakeholder

Clause 36 (a) (i)

1632. Amend the proposal to maintain the current excise duty exemption for locally assembled mobile phones or provide a preferential excise duty rate for locally manufactured devices. Imposing a 25% excise duty on locally assembled phones would significantly increase production costs, raise retail prices, and undermine investments made in local manufacturing.

Committee Observation
The Committee agreed with the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services.

Clause 47

1633. Delete the proposal to delete the VAT import offset mechanism, reducing flexibility in managing tax cash flows for manufacturers.

Committee Observation

The Committee considered the concerns raised by M-Kopa Mobility Kenya Limited and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 55 (a) (ii) and Clause 55 (b) (ii)

1634. Amend the proposal to extend the Import Declaration Fee (IDF) and Railway Development Levy (RDL) exemptions to imported components and inputs used in the local assembly of mobile phones, ensuring fair treatment with imported finished phones.

Committee Observation

The committee noted the concerns of M-Kopa Mobility Kenya Limited and resolved that the to delete the proposal in the Bill

3.3.99 FEDERATION OF KENYA EMPLOYERS (FKE)

Clause 2(b)

1635. Delete the proposal expanding the definition of "management or professional fee" because the **Supreme Court in Barclays Bank of Kenya (now ABSA Bank Kenya PLC) v Commissioner of Domestic Taxes** held that interchange fees processed between issuing and acquiring banks are not management or professional fees but operational settlements compensating issuing banks for costs and risks. Taxing such fees may result in unintended double taxation and create compliance difficulties since the fees are processed automatically within banking systems.

Committee Observation

The Committee noted the concerns raised by the Federation of Kenya Employers (FKE) but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer

transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)(vii)

1636. Delete the provision introducing royalties on payments for the use of digital platforms, payment networks, payment card schemes, and related systems because the amendment would increase the cost of digital financial services and undermine efforts to promote affordable and accessible digital payment systems within the economy.

Committee Observation

The Committee agreed with FKE and observed that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 7(n), 17(a) (iii) (v), 17(b)(p) and 22(b)(ii)(x)

1637. Delete the proposal introducing withholding tax on sale of scrap metal because formalization of scrap sales through withholding tax may discourage informal and unregistered scrap transactions while increasing operational costs within the scrap metal value chain through reduced margins and higher prices.

Committee Observation

The Committee acknowledged the concerns raised by FKE but noted that the proposed withholding tax on scrap metal is intended to formalize the sector, improve traceability of transactions, and reduce revenue leakage in a sector characterized by significant informality. The Committee further observed that implementation concerns may be addressed through administrative guidance, but do not justify deleting or narrowing the proposed measure.

Clause 17(a)(i)

1638. Delete the proposal removing withholding tax exemption on payments made by the national carrier to non-resident service providers because aviation service agreements are ordinarily negotiated on a gross-up basis and the airline is therefore likely to bear the additional withholding tax burden. The stakeholder further noted that the proposal may increase the cost of procuring specialized aviation services from non-resident providers.

Committee Observation

The Committee acknowledged FKE'S concerns and agreed that the proposed repeal of the exemption on payments by the national carrier to non-resident service providers would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. The Committee further noted the potential adverse impact on competitiveness and operational efficiency of the national carrier and therefore recommended deletion of the proposal.

Clause 18(a)

1639. Delete the provision reducing the timeline for filing returns of income from six months to four months because entities regulated by institutions such as the Central Bank of Kenya and the Insurance Regulatory Authority require adequate time to finalize audited financial statements, secure board approvals, and reconcile tax positions before filing annual returns. Further, this may increase compliance burdens and associated costs without necessarily generating additional revenue.

Committee Observation

The Committee acknowledged FKE's concerns and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19(a)

1640. Delete the clause shortening the period for filing self-assessment returns from six months to four months because the Commissioner already has a statutory review period of five years under the Tax Procedures Act to review filed returns. Reducing filing timelines may increase compliance burdens particularly for taxpayers with multiple income streams and entities reliant on audited financial statements.

Committee Observation

The Committee acknowledged FKE'S proposals and noted that the proposal to introduce revised filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee

recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31(a)(iii)

1641. Delete the proposal imposing VAT on direction finding compasses, instruments, and appliances for aircraft because it would increase operational and maintenance costs within the aviation sector, which already bears significant tax and regulatory charges including air navigation fees, passenger service charges, fuel levies, excise duties, and employment-related taxes. The stakeholder further submitted that the increased costs are likely to be passed on to consumers through higher air transport charges.

Committee Observation

The Committee agreed with FKE's proposal.

Clause 31(a)(iv) and 31(b)(iii)

1642. Delete the proposal imposing VAT on taxable goods and services used directly and exclusively for construction of tourism facilities, recreational parks, convention centres, and conference facilities because the amendment would increase the cost of investment and development within the tourism and hospitality sector. The removal of the incentive may discourage both local and foreign investment in large-scale tourism infrastructure projects and contradict the Government's objective of promoting tourism as a key economic pillar.

Committee Observation

The Committee acknowledged the concerns raised FKE, however, it observed that it is difficult to verify whether items are exclusively used for the purpose specified in the law. Therefore, the Committee recommended retention of the proposal.

Clause 31(b)(i)

1643. Delete the proposal imposing VAT on money transfer, payment processing, settlement, merchant acquiring, gateway, and aggregation services supplied through software platforms because the amendment would increase the cost of digital and electronic transactions for businesses and consumers. The provision may undermine financial inclusion, ease of doing business, and the transition towards a cashless economy while increasing operational costs for employers and businesses reliant on digital payment systems.

Committee Observation

The Committee acknowledged the concerns raised by FKE but recommended the amendment of the clause to adopt a broader,

technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(i)

1644. Amend the proposal increasing excise duty on locally purchased or imported cellular phones by revising the proposed excise duty rate from twenty-five per cent to ten per cent because the proposed rate would significantly increase the cost of mobile devices and limit access to affordable communication devices particularly for low-income consumers. The stakeholder further noted that the increased excise burden and timing of crystallization upon activation may create compliance challenges within the telecommunications sector.

Committee Observation

The Committee noted that the proposal to increase excise duty to 25% could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services.

Clause 41

1645. Amend the proposal centralizing the Commissioner's anti-avoidance powers under the Tax Procedures Act by introducing a requirement for prior engagement with the taxpayer before issuance of an assessment because the amendment grants broad discretionary powers without adequate procedural safeguards. The practical impact of the provision will depend on how the powers are exercised and whether additional guidance is issued.

Committee Observation

The Committee acknowledged FKE's concerns but observed that the intention of the proposed introduction of a General Anti-Avoidance Rule is to strengthen the tax framework, thus the need for safeguards to ensure legal certainty and proper application. The Committee however recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

1646. Amend the proposal expanding circumstances under which the Commissioner may issue assessments by requiring prior engagement with taxpayers before issuance of assessments and introducing a corresponding burden of proof where assessments are based on third-party records or system-generated data. The clause blurs the distinction between self-assessment and corrective assessment mechanisms while potentially increasing disputes where taxpayers have no prior access to the external data relied upon by the Commissioner.

Committee Observation

The Committee acknowledged FKE's concern but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

1647. Delete the proposal removing relief applicable where principal tax not deducted, withheld, or remitted has already been paid and accounted for by the recipient because the provision was introduced to address circumstances where there is no net revenue loss to the Exchequer. Repealing the relief less than one year after enactment undermines legislative certainty.

Committee Observation

The Committee considered the concerns raised by FKE and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

1648. Delete the proposal allowing the Commissioner to issue agency notices despite pending appeals because the amendment undermines taxpayers' rights to appeal and fair administrative action. Similar proposals were rejected during consideration of the Finance Bills, 2024 and 2025.

Committee Observation

The Committee considered the concern raised by FKE and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 47

1649. Delete the proposal restricting utilization of tax overpayments against VAT payable on imports because the amendment would increase the cost of doing business by requiring taxpayers to make additional cash payments while awaiting delayed refunds. This undermines the principle that tax overpayments should be available for settlement of existing tax liabilities within the tax system.

Committee Observation

The Committee considered the concern raised by FKE and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 48

1650. Amend the proposal introducing pre-populated tax returns by allowing taxpayers to amend or edit pre-populated information before submission of returns because the information may at times be incomplete, inaccurate, or inconsistent with taxpayers' records. Permitting amendments would promote voluntary compliance and reduce disputes arising from inaccurate pre-populated data.

Committee Observation

The Committee acknowledged the concern raised by FKE, but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 49

1651. Delete the proposal computing appeal timelines strictly on a calendar day basis because the amendment may unfairly prejudice taxpayers by limiting adequate time for preparation and filing of appeals particularly where weekends, public holidays, or administrative delays are involved. This provision may impede access to justice and fair administrative action.

Committee Observation

The Committee considered the concern raised by FKE and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 51(b)

1652. Amend the proposal introducing a Ksh2 million threshold for waiver of penalties and interest arising from system-related failures by deleting the monetary limitation because taxpayers seeking waiver of system-generated penalties exceeding the threshold may remain exposed to prolonged administrative delays and uncertainty.

Committee Observation

The Committee acknowledged the concern raised by FKE, but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

Clause 57

1653. Delete the proposal reducing the portion of Road Maintenance Levy allocated to the Road Annuity Fund from Ksh3.00 to Ksh1.50 per litre because the reduction does not lower the levy payable by consumers but merely reduces funding available for road infrastructure and maintenance. There is continuous need for road maintenance across the country and insufficient justification has been provided for the reduction.

Committee Observation

The Committee acknowledged the concern raised by FKE, but noted that the proposal reduces the allocation to the Annuity Fund from KSh 3 to KSh 1.5 per litre, as no new annuity projects are planned and existing obligations can be met under the revised inflows. The Committee further observed

that the reallocated funds will enhance road maintenance financing and support the approved securitization framework. The Committee therefore recommended retaining the provision as is.

New Provision

1654. Reduce PAYE tax rates and expand PAYE tax bands in order to ease the tax burden on salaried workers because lower PAYE rates and wider tax bands would increase disposable income, stimulate consumer spending and investment, support SME growth, create employment opportunities, and contribute positively to Gross Domestic Product (GDP) growth. Additionally, the current marginal PAYE rate of thirty-five per cent exceeds the corporate tax rate of thirty percent (30%), despite individuals being taxed on gross earnings while corporations enjoy deductible expenses.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

3.3.100 PLEA FOR FREEDOM FINANCIALLY

1655. The stakeholder submitted that taxes are necessary for the country to develop and provide services to its citizens. However, it is also important to ensure that the tax measures are fair and do not place undue pressure on the ordinary Kenyan citizen. Many Kenyans are already struggling to make ends meet due to the cost-of-living, lack of jobs and low incomes.

1656. They stated that the proposed tax measures might make the cost of goods and services even higher. The ordinary Kenyan citizen is already spending a lot of money on food, transport, rent, electricity, fuel and healthcare. If there are taxes on these things it will be very hard for people to afford the basic things they need.

1657. Further, they stated that small businesses are very important for creating jobs and helping the economy grow. However, many businesses are struggling because people are not spending money the cost of running a business is too high and the economic environment is not stable. If there are taxes, rules or costs for businesses it might hurt their growth, discourage people from starting new businesses and lead to job losses. The policies in the Finance Bill 2026 should try to support businesses and encourage entrepreneurship instead of making things harder for them.

1658. They proposed the government not to tax goods and services too much so that ordinary citizens can afford the basic things they need; introduce policies that support businesses, entrepreneurship and job creation; be transparent and accountable in how

it uses funds; reduce spending and use taxpayer money efficiently; involve citizens in the decision-making process before introducing tax measures; develop policies that encourage investment, job creation and sustainable economic growth and; prioritize policies that improve the welfare and purchasing power of citizens instead of making things harder for them.

Committee Observation

The Committee noted the comments by Plea for Freedom Financially, and recommended to the National Assembly to conduct an impact assessment on the utilization of the taxes collected.

3.3.101 KITUO CHA SHERIA

Clause 31 (a) (ix)

Paragraph 169

1659. Delete the clause or exempt small-scale traders and low-value consignments from the tax. The mitumba sector is a major source of livelihood for thousands of low-income Kenyans, especially women and youth in the informal - economy. The proposed tax will increase the cost of affordable clothing and threaten jobs and survival for vulnerable households. This undermines Articles 43 and 56 of the Constitution on socio-economic rights and protection of marginalized groups.

Committee Observation

The Committee agreed with Kituo Cha Sheria's proposal.

Clause 31 (b) (i)

1660. Retain VAT exemption for mobile money and low-value digital financial transactions. Millions of poor Kenyans rely on mobile money and digital payments for daily survival, including payment of school fees, rent, transport and food. The proposal will increase transaction costs and disproportionately burden low-income users, contrary to Article 201 on equitable taxation and Article 43 on economic and social rights.

Committee Observation

The Committee acknowledged the concern raised by Kituo cha Sheria, but observed that specifically referring to mobile money would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further

noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 34 and clause 36 (a) (i)

1661. Delete the clause or exempt low-cost smartphones and basic phones. Mobile phones are essential tools for communication, education, access to government services, banking and employment opportunities. Increased taxation will widen the digital divide and lock poor Kenyans out of the digital economy, undermining Articles 35, 43 and 56 of the Constitution.

Committee Observation

The Committee acknowledged the concerns raised by Kituo cha Sheria and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 38

1662. Introduce express safeguards on privacy, judicial oversight, data protection and due process before information sharing. The provisions permit financial surveillance and collection of personal financial data. Without strong safeguards, the measures risk violating the right to privacy under Article 31 and principles of fair administrative action under Article 47. Tax administration must not undermine constitutional rights and civil liberties.

Committee Observation

The Committee acknowledged the concern by Kituo Cha Sheria but observed that the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements.

3.3.102 UBER BV

Clause 2(c)

1663. Reconsider the proposal or amend to align with internationally accepted definitions of royalties where the payer acquires a genuine exclusive or proprietary right in or over a proprietary system or digital platform rather than mere access or participation rights. This would prevent potential conflict with existing provisions of Significant Economic Presence Tax (SEPT) under the Income Tax and misalignment with the OECD and UN Models.

Committee Observation

The Committee noted Uber BV's proposal. However, it observed that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 19

1664. Delete the proposal. Alternatively, defer pending stakeholder consultation or amend to provide for a phased implementation period. This is because the proposed accelerated timeline presents an unrealistic additional compliance burden for taxpayers.

Committee Observation

The Committee acknowledged the concerns by Uber BV, and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31(b)(i)

1665. Delete the proposal and retain the existing VAT exemption for payment-processing, settlement, gateway, aggregation and merchant-acquiring services relating to exempt passenger transport services. In the alternative, amend the Bill to expressly provide that VAT incurred on such payment-related services attributable to exempt passenger transport supplies shall be recoverable. This is because the proposal could create irrecoverable VAT leakage within Kenya's digital mobility ecosystem, disincentivise the use of digital payments and create unintended distortions between digital and cash payment methods.

Committee Observation

The Committee acknowledged the concern raised by Uber BV. However, it observed that the intention of the provision is to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

New Proposals

1666. Noting that Section 12E(6) of the Income Tax Act requires the Cabinet Secretary to make Regulations for the better implementation of the section within 6 months of its commencement, the CS should urgently finalize and gazette the SEPT Regulations.

Committee Observation

The Committee noted the proposal by Uber BV and undertook to consider it in future legislation.

3.3.103 HON. NDINDI NYORO, CBS, MP

New Proposal

1667. The Honourable Member for Kiharu proposed that the Road Maintenance Levy Act, Cap. 427 be amended to reduce the fuel levy by KSh. 7 per litre, which was introduced in 2024, on both petrol and diesel to cushion Kenyans from the high cost of Petroleum Products.

New Proposal

1668. The Hon. Ndindi, CBS, MP also proposed that the Value Added Tax Act, Cap. 476 be amended by reducing VAT on fuel by 8% and classifying petroleum products as VAT exempt to cushion Kenyans from the high cost of petroleum products.

New Proposal

1669. He further proposed that the Excise Duty Act, Cap.472 be amended to reduce excise duty on Super Petrol by KSh 7 per litre, from the current rate of KSh 21.95 to KSh 14.95 per litre, and a corresponding reduction of excise duty on Diesel and Kerosene by KSh 7 per litre, from the current rate of KSh11.37 to KSh 4.37 per litre, respectively, to cushion Kenyans from the high cost of petroleum.

Committee Observation.

The Committee noted the proposals raised by Hon. Nyoro regarding the reduction of fuel related taxes and levies as contained in his submissions on the Finance Bill, 2026.The Committee further noted that the Hon. Nyoro

is a sitting Member of Parliament and as such has an opportunity to formally introduce amendments to the Bill, and seek support for his proposals from among other lawmakers during the consideration of the Bill on the Floor of the House. The Committee is of the view that the public participation forums were primarily intended to receive views from members of the public and other stakeholders who do not have a direct legislative platform within Parliament. Accordingly, the Committee encourages the Member to advance his proposals during the legislative stages of the Bill in the House.

3.3.104 MR. GEORGE ODONGO

Clause 31(b)

1670. Delete the proposal because it will drive up daily transactional overhead on essential digital services and increase the cost of living while the country is currently grappling with inflation.

Committee Observation

The Committee acknowledged the concern raised by Mr. George Odongo. However, it observed that the intention of the provision is to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 38

1671. Reconsider the penalty clause imposed in the new section 6C as it is excessive and to ensure adherence with principles of fair taxation.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Odongo, but noted that a legal framework for crypto-assets is necessary to align with OECD standards and ensure effective taxation of a sector with significant transaction volumes. Therefore, the penalties provided in the Bill are commensurate.

3.3.105 MR. MAURICE AGIREH

Clause 2(b)

1672. Amend the proposal expanding the definition of *"management or professional fee"* to insert a statutory definition of *"merchant service fee"* to avoid creating uncertainty

and potential interpretational disputes regarding the scope of withholding tax obligations. Additionally, place the Withholding Tax (WHT) compliance obligation on acquiring banks rather than on merchants or SME payers; and exempt SMEs below a defined annual turnover threshold. Requiring SMEs to account for withholding tax on automated card payment transactions would impose significant compliance and system adjustment costs while undermining the Government's financial inclusion and cashless economy agenda.

Committee Observation

The Committee noted the concerns raised by Mr. Maurice Agireh, but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 19

1673. Delete the proposal reducing the income tax return filing deadline from six months to four months since SMEs and small businesses largely depend on external accountants and tax agents who serve multiple clients concurrently, and compressing filing timelines would create compliance bottlenecks, increase exposure to penalties, and force taxpayers to file returns before properly reconciling their accounts. The stakeholder further noted that the one-month filing deadline for nil returns is impractical for operational businesses that may legitimately report nil tax after application of allowable deductions and losses.

Committee Observation

The Committee acknowledged Mr. Agireh's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 42

1674. Amend the proposal introducing section 29A of the Tax Procedures Act given that the provision grants the Commissioner powers to originate assessments based on third-party and electronic data without prior taxpayer engagement, thereby undermining the self-assessment framework underpinning Kenya's tax system. The stakeholder noted that system-generated data may contain errors, mismatches, or inconsistencies capable of producing incorrect assessments, especially for SMEs with limited resources to challenge automated tax demands. The provision should therefore be amended to require issuance of a pre-assessment notice, disclosure of the data relied upon, and a minimum response period before issuance of an assessment.

Committee Observation

The Committee acknowledged Mr. Agireh's concern, but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 44

1675. Delete the proposal repealing section 39A (2) of the Tax Procedures Act considering that the provision was enacted to prevent double collection of withholding tax where the principal tax has already been paid and accounted for by the recipient of income. Repealing the safeguard would expose withholding agents, particularly SMEs, to unfair tax demands on income that has already been subjected to taxation, thereby creating economic injustice and unnecessary enforcement pressure without generating additional revenue for the Exchequer.

Committee Observation

The Committee considered the concerns raised by Mr. Agireh and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

1676. Delete the proposal repealing section 42(14)(e) of the Tax Procedures Act because the amendment would permit the Commissioner to issue agency notices and enforce collection of disputed taxes while appeals remain pending before the Tax Appeals Tribunal or the High Court, thereby undermining taxpayers' constitutional rights to fair administrative action and fair hearing. The stakeholder further noted that similar proposals were rejected by Parliament during consideration of the Finance Bills, 2024 and 2025 on grounds that they unfairly prejudice taxpayers exercising their lawful right of appeal.

Committee Observation

The Committee noted the concern raised by Mr. Agireh. However, it observed constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended the deletion of the proposal.

3.3.106 MR. BRUCE OMONDI

Clause 11

1677. Amend Clause 11 to require that any such exemption certified by the Cabinet Secretary must be tabled in and approved by the National Assembly within 14 days of issuance. Additionally, the Bill should strictly define the criteria for "public interest."

Committee Observation

The Committee noted Mr. Bruce Omondi's proposal. However, the Committee observed that the Clause on Cabinet Secretary's discretion on fee and interest exemptions does not exist in the Bill.

Clause 12,13,14,15 & 16

1678. Retain as drafted. However, add a transitional clause ensuring that the processing and registration timelines for new funds by the Retirement Benefits Authority (RBA) are legally capped at 30 days to avoid administrative delays.

Committee Observation

The Committee further observed that the clause on exemptions for registered retirement funds does not exist in the Bill.

Clause 22

1679. Amend Clause 22 to introduce a justifiable financial cap on the maximum amount of foreign allowance that can be exempted from income tax per financial year.

Committee Observation

The Committee acknowledged the proposal by Mr. Omondi but noted that the referenced clause on tax exemptions on foreign allowances for public officers, does not exist in the Bill.

Clause 35

1680. Expand Clause 35 to apply the tax exemption to interest earned on savings and dividend deposits up to a threshold of KSh 150,000 annually across all Central Bank-regulated institutions and registered SACCOs.

Committee Observation

The Committee acknowledged the proposal by Mr. Omondi but noted that the referenced clause on tax exemption on the Kenya Post Office Savings Bank interest does not exist in the Bill.

3.3.107 MS. CATHERINE MURIITHI

Clause 2 (b)

1681. Delete the proposal seeking to treat fees paid by banks and payment processors to card companies (such as Visa or Mastercard) as "royalties" subject to withholding tax.

Committee Observation

The Committee noted the concerns raised by Ms. Catherine Muriithi, but observed that the intention of the provision is to clarify the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 8

1682. The stakeholder supports the proposal as trusts are recognized as fiduciary arrangements for asset preservation and succession planning, not mechanisms for creating untaxed wealth.

Committee Observation

The Committee agreed with Ms. Muriithi.

Clause 19 (a)

1683. Delete the proposal seeking to reduce the period for filing tax returns to four months from the current six-month period. As this would result in inaccurate returns and increased disputes between taxpayers and KRA.

Committee Observation

The Committee acknowledged Ms. Muriithi's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31 (a) (ix)

1684. Delete the proposal on the new proposals under paragraph 165, 166, and 168 and retain the zero-rated status so as to provide continued support in clean energy and sustainable transport solutions, which are key to the country's climate change commitments.

Committee Observation

The Committee acceded with Ms. Muriithi's request to delete paragraph 165 and 166. However, it observed that the proposed amendment transfers selected Bioethanol vapour from VAT zero-rated status to VAT exempt status in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term Revenue Strategy. The Committee further noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clause 34

1685. Delete the proposal since mobile phones are essential for personal and business use and further drive financial inclusion.

Committee Observation

The Committee acknowledged the concerns raised by Ms. Muriithi and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue

collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 42

1686. Delete the proposal seeking to give KRA live access to business accounts on businesses financial transactions. Tax compliance does not require continuous live access to private accounting systems. Existing electronic reporting systems already provide KRA with sufficient tools to monitor compliance without exposing confidential business data to unnecessary privacy and cybersecurity risks

Committee Observation

The Committee acknowledged Ms. Muriithi's concern but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1687. Delete the proposal seeking to allow KRA to issue agency notices before appeals are heard.

Committee Observation

The Committee noted the concern raised by Ms. Muriithi however, it observed constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended the deletion of the proposal.

3.3.108 MR. HAMUD ALWI

Clause 22 (a)

1688. Delete the proposal since the preferential rate gives concrete fiscal effect to Article 43(1)(b) of the Constitution (right to accessible and adequate housing) and to the Affordable Housing Act, 2024. Retaining it keeps the tax architecture consistent with the country's stated housing commitments, Kenya Vision 2030 and the BETA agenda.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Hamud Alwi but observed that the proposed amendment repeals the preferential corporation tax rate of 15 percent for qualifying housing developers to address revenue leakage and ensure that tax incentives are better aligned with the intended housing policy objectives.

Clause 31(a)(vii)

1689. Delete the proposal that seeks to make vatable at standard rate goods imported or purchased locally for the direct and exclusive use in the construction of houses under an affordable housing scheme.

Committee Observation

The Committee noted the concern raised by Mr. Hamud Alwi and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

New Proposal

VAT Act, Section 17

1690. Amend by adding a new subsection after subsection 17 (9) to read as follows:

If the fraction of the formula in subsection (6) for a tax period–

(a) is more than 0.90, the registered person shall be allowed an input tax credit for all of the input tax comprising component A of the formula; or

(b) is less than 0.10, the registered person shall not be allowed any input tax credit for the input tax comprising component A of the formula.

1691. This 90:10 threshold restricts the benefit to genuine affordable housing, Official Aid Funded and National Infrastructure Projects. This brings about undue difficult from suppliers of construction items like cement, steel to supply the aforementioned projects as they have to bear and pass on the input VAT cost in their prices.

Committee Observation

The Committee noted the proposal by Mr. Hamud Alwi and undertook to consider it in future legislation.

3.3.109 MS. ANNE AROCHI WANG'ANYA

Clause 2 (b)

1692. Delete the proposal seeking to treat fees paid by banks and payment processors to card companies (such as Visa or Mastercard) as "royalties" subject to withholding tax.

Committee Observation

The Committee noted the concerns raised by Ms. Anne Wang'anya but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 8

1693. The stakeholder supports the proposal as trusts are recognized as fiduciary arrangements for asset preservation and succession planning, not mechanisms for creating untaxed wealth.

Committee Observation

The Committee acknowledged the concerns raised by Ms. Anne Wang'anya but noted that the amendment clarifies that trusts are not taxable persons and that tax liability rests with the trustee or beneficiary, thereby simplifying the tax framework. The Committee further proposed an amendment to clarify that dividends and interest income already subject to final withholding tax shall not be subject to further taxation.

Clause 19 (a)

1694. Delete the proposal seeking to reduce the period for filing tax returns to four months from the current six-month period as this would result in inaccurate returns and increased disputes between taxpayers and KRA.

Committee Observation

The Committee acknowledged Ms. Wang'anya's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31 (a) (ix)

1695. Delete Paragraph 165, 166, and 168 and retain the zero-rated status so as to provide continued support in clean energy and sustainable transport solutions, which are key to the country's climate change commitments.

Committee Observation

The Committee agreed with Ms. Wang'anya to delete paragraph 165 and 166. However, it observed that the proposed amendment transfers selected Bioethanol vapour from VAT zero-rated status to VAT exempt status in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term Revenue Strategy. The Committee further noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clause 34

1696. Delete the proposal since mobile phones are essential for personal and business use and further drive financial inclusion.

Committee Observation

The Committee acknowledged the concerns raised by Ms. Anne Wang'anya and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 42

1697. Delete the proposal seeking to give KRA live access to business accounts for business's financial transactions. Tax compliance does not require continuous live access to private accounting systems. Existing electronic reporting systems already provide KRA with sufficient tools to monitor compliance without exposing confidential business data to unnecessary privacy and cybersecurity risks

Committee Observation

The Committee acknowledged Ms. Anne Wang'anya concern but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1698. Delete the proposal seeking to allow KRA to issue agency notices before appeals are heard**.**

Committee Observation

The Committee noted the concern raised by Ms. Wang'anya however, it observed constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended the deletion of the proposal.

3.3.110 MS. AKEYA NYABOKE LILIAN

Clauses 18 and 19

1699. Amend the proposal to retain the current annual tax return filing deadline of 30th June. The proposed shift of the filing deadline to 30th April significantly shortens the accounting, reconciliation, and audit preparation period for businesses and individual taxpayers. This may lead to compliance challenges, inaccurate filings, and increased exposure to penalties due to rushed financial reporting processes.

Committee Observation

The Committee acknowledged Ms. Lilian Akeya's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

1700. Delete the proposal to increase the residential rental income tax rate from 7.5% to 10%. The increase is likely to be transferred to tenants through higher rental charges, thereby increasing the cost of housing and worsening the cost-of-living burden, particularly for low- and middle-income households.

1701. Committee Observation

The Committee observed that the Clause referenced by Ms. Lilian Akeya's does not exist in the Bill.

Clause 31 (b) part II

1702. Delete the proposal to remove VAT exemptions on mobile money transfers, foreign exchange transactions, and digital streaming services. Taxing mobile money and digital financial services undermines financial inclusion, increases the cost of accessing essential services, and may negatively affect the growth of the digital economy and innovation ecosystem.

Committee Observation

The Committee acknowledged the concerns raised by Ms. Lilian Akeya's but recommended the amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36 (a) (i) and Mitumba Taxes

1703. Amend the proposal imposing a 25% excise duty on smartphones by reducing the rate to 10%, and **delete** the proposed 5% levy on second-hand clothes (mitumba). Smartphones are now essential tools for communication, education, and business, while mitumba remains an important source of affordable clothing for low-income households. The proposed taxes are therefore regressive and disproportionately affect ordinary Kenyans.

Committee Observation

The Committee agreed with Ms. Lilian Akeya and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee further observed that the proposal in paragraph 169 that seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

Clause 41

1704. Amend the proposal granting the Kenya Revenue Authority powers to mandate direct electronic integration into corporate transactional databases. While enhancing tax compliance is important, the proposal raises concerns regarding the constitutional right to privacy, protection of confidential business information, and data security. The provision should therefore be amended to require a court order or clear legal warrant before KRA can compel direct access or integration into taxpayer systems.

Committee Observation

The Committee acknowledged Ms. Lilian Akeya's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

3.3.111 MR. KEVIN MWAURA NJOROGE - Chairperson, Brilliant Joy Bringer Youth Group

Clauses 18 &19

1705. Delete the entire clause. With reduced timelines, many SMES may not be able to compute their taxes on time, especially individuals.

Committee Observation

The Committee acknowledged Mr. Kevin Njoroge's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 16

1706. Delete the provision. The clause would result in reduced cash flows, which businesses are struggling with.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Kevin Njoroge however, it observed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 29

1707. Delete the entire clause. The clause will confuse the KRA officers and taxpayers who are not registered for VAT.

Committee Observation

The Committee considered the concerns raised Mr. Kevin Njoroge and agreed that extending the eTIMS invoicing requirement to all persons would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 42

1708. Delete the clause because this section empowers the commissioner to demand disputed taxes under duress, which goes against the principles of natural justice.

Committee Observation

The Committee acknowledged concern expressed by Mr. Kevin Njoroge, but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 47

1709. Delete the clause because it would unnecessarily deny avenues for a taxpayer to utilise their refundable VAT, yet cash refunds have not always been forthcoming when needed most.

Committee Observation

The Committee considered the concern raised by the stakeholder and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 48

1710. Delete the clause because it will be grossly abused to deny taxpayers their rightful expenses or input taxes, as is evident in the current VAT and Income Tax filings.

Committee Observation

The Committee acknowledged the concern raised by Mr. Njoroge but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 52

1711. Delete the clause because if the section is not implemented with caution, there is a section of taxpayers who will bear the tax burden unfairly, thus being unable to operate normally.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that, consistent with previous responses to similar proposals, the repeal and replacement of Section 86 is intended to establish a more robust penalty framework for non-compliance with electronic tax systems (eTIMS). The Committee further observed that the stronger penalty regime is necessary to enhance compliance and support effective implementation of electronic tax administration systems.

3.3.112 MR. DAVID OMBUI

Clause 36 (a) (i)

1712. Delete the proposal to increase the excise duty from 10% to 25%. Alternatively, any increase is deemed necessary cap it at a maximum of 12%. Additionally, he proposed maintaining the point of taxation at importation and not activation to prevent administrative ambiguity and consumer confusion. Also, the Commissioner needs to form a formal digital inclusion impact assessment before any tax on mobile devices is enacted.

Committee Observation

The Committee agreed with Mr. David Ombui and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services.

3.3.113 MS. CLARE MULAMA

Clause 36 (a) (i)

1713. Reject the proposal because mobile phones are no longer a luxury; they are a basic necessity. People use them to pay bills, access banking, run businesses, get government services, and keep children in school through online learning. Making phones more expensive hurts everyone, but especially people on lower income.

Committee Observation

The Committee agreed with Ms. Clare Mulama and noted that the proposal could undermine digital inclusion, discourage local assembly and

investment in the ICT sector, and adversely affect access to communication and digital services.

Clause 8

1714. Delete the proposal retain the current provisions. This amendment is unfair because it amounts to double taxation. The principle is that trusts do not create new wealth or income; they merely hold and manage already taxed assets.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the amendment clarifies that trusts are not taxable persons and that tax liability rests with the trustee or beneficiary, thereby simplifying the tax framework. The Committee further proposed an amendment to clarify that dividends and interest income already subject to final withholding tax shall not be subject to further taxation.

Clause 42

1715. Delete the amendment and retain the existing provisions. This a serious privacy and security concern because it will force businesses to connect their accounting software directly to the Kenya Revenue Authority (KRA), giving the government real-time (live) access to all their financial transactions.

Committee Observation

The Committee acknowledged Ms. Mulama's concern, but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1716. Delete the amendment and retain the existing section 42 (14) (e) as it is. Tax assessments are sometimes wrong. Businesses regularly win appeals and have assessments overturned. If KRA can freeze accounts before an appeal is even finished, a business could be shut down unable to pay staff, buy stock, or pay suppliers even when the tax demand turns out to be incorrect.

Committee Observation

The Committee noted the concern raised by the stakeholder however, it observed constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore recommended the deletion of the proposal.

Clause 32 (e, g) E-Mobility

1717. Delete the proposal and retain the zero-rate rather than exempt. The EV market in Kenya is still very young. Exempt VAT on EV parts, batteries, charging equipment, charging infrastructure or charging technology systems would make electric cars, electric buses and motorcycles more expensive; pushing them out of reach for most Kenyans and making it harder for businesses to invest in clean transport.

Committee Observation

The Committee acknowledged the concerns raised by Ms. Mulama and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of electric cars, electric buses and motorcycles

Clause 18

1718. Delete the proposal and retain the existing provision. Most Kenyan businesses close their financial year on 31st December. After that, they need time to prepare their accounts, have them audited, and file their returns accurately. Moving the deadline to 30th April gives only four months instead of six, which is not enough time, especially for small businesses that rely on outside accountants.

Committee Observation

The Committee acknowledged the stakeholder's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 2 (b)

1719. Reject the proposal in its entirety. These payments are already subjected to VAT and Excise Duty and would add a new tax on top of those fees. The problem is that banks and businesses will almost certainly pass that extra cost on to customers and suppliers meaning, higher charges for everyday digital transactions.

Committee Observation

The Committee noted the concerns raised by the stakeholder, but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

3.3.114 MR. PAUL KIMANI

Clause 18

1720. Delete the proposal because with reduced timelines, many SMES may not be able to compute their taxes on time, especially individuals.

Committee Observation

The Committee acknowledged Mr. Paul Kimani's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 19

1721. Delete the proposal because there is no justification for the government shortening the returns filing timelines.

Committee Observation

The Committee acknowledged Mr. Kimani's concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that

nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 16

1722. Delete the proposal because, in a period of high fuel prices and rising tax compliance costs, this section would reduce cash flows, which businesses are already struggling with.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder, but did not agree with the proposal to the entire clause. The Committee further observed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 29

1723. Delete the proposal because it is a section that will confuse the KRA officers and taxpayers who are not registered for VAT.

Clause 42

1724. Delete the proposal because the Section empowers the commissioner to demand disputed taxes under duress, which goes against the principles of natural justice.

Committee Observation

The Committee acknowledged Mr. Kimani's concern but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 47

1725. Delete the proposal because the section would unnecessarily deny avenues where a taxpayer can utilize their refundable VAT, yet the cash refunds have not always been forthcoming at the time needed most.

Committee Observation

The Committee considered the concern raised by the stakeholder and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 48

1726. Delete the proposal because the section will be grossly abused to deny taxpayers claiming their rightful expenses or input taxes, which is evident in the current tax filing for VAT and Income Tax.

Committee Observation

The Committee acknowledged the concern raised by Mr. Kimani, but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Clause 52

1727. Delete the proposal because if it is not implemented with caution, there is a section of taxpayers who will bear the tax burden unfairly, thus being unable to operate normally.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that, consistent with previous responses to similar proposals, the repeal and replacement of Section 86 is intended to establish a more robust penalty framework for non-compliance with electronic tax systems (eTIMS). The Committee further observed that the stronger penalty regime is necessary to enhance compliance and support effective implementation of electronic tax administration systems.

3.3.115 HON. MUSTAFA ABDIRASHID AHMED, DEPUTY SPEAKER GARISSA COUNTY

New Proposals

1728. Amend the law to protect ASAL counties against livestock vulnerabilities, food insecurity and reduced household incomes. The stakeholder further proposed strategic interventions covering the sectors of infrastructure, investment incentives, agriculture, livestock, water, and irrigation.

Committee Observation

The Committee noted the proposal by Hon. Mustafa Ahmed and undertook to consider it in future legislation.

VAT Act, First Schedule

1729. Amend the law to exempt animal feeds, veterinary medicines, livestock vaccines, water drilling equipment, solar-powered borehole systems, and cold-chain preservation equipment. This will support the livestock value chain by improving food security, creating jobs, enhancing exports, strengthening resilience, and expanding long-term revenue generation.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal. However, they noted the proposal of the other items and proposed to consider it in future legislation.

3.3.116 CENTRAL ORGANIZATION OF TRADE UNIONS - KENYA (COTU)

Clause 3 (a)

1730. The stakeholder supported the proposal because it introduces an important principle that gratuity and retirement-related tax incentives should primarily support sustained employment relationships and long-term retirement security**.** While the proposal may attract debate within the labour market, it has the potential to promote more stable employment relationships, strengthen long-term social protection arrangements, and discourage abuse of gratuity and pension schemes for tax avoidance purposes. They emphasized the need for safeguards to ensure that employers do not respond by deliberately terminating workers before reaching the three-year threshold.

Committee Observation

The Committee agreed with the Central Organization of Trade Unions (COTU).

Clause 36 (a)

1731. Delete clause 36 (a) (i) on 25% excise duty on mobile phones and cellular networks because the introduction of excessive taxation on mobile devices risks undermining this progress by increasing the cost of digital access, excluding low-income users, slowing digital inclusion, weakening e-commerce growth, discouraging youth innovation, and hurting emerging sectors that depend on affordable connectivity.

Committee Observation

The Committee agreed with the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services.

New Proposals

PAYE reforms

1732. Proposes comprehensive PAYE reforms targeted at workers earning up to Kshs. 60,000 per month to increase disposable income, stimulate domestic demand, and support economic recovery. Workers in this income bracket are among the most affected by inflationary pressures and statutory deductions, despite constituting a significant share of Kenya's productive workforce and consumer economy. According to COTU (K) research, the proposed PAYE relief targets workers earning up to Kshs. 60,000 would release over Kshs. 31 billion back into the economy as usable household income.

Committee Observation

The Committee noted the proposal by COTU and undertook to consider it in future legislation.

Tax deductibility of Union dues

1733. Propose that trade union dues should be made fully tax-deductible under the Income Tax framework because trade unions play a critical role in promoting industrial harmony, social dialogue, collective bargaining, workers' education, occupational safety and health, legal representation, dispute resolution, and protection of workers' rights as guaranteed under Article 41 of the Constitution.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Protection of Workers in the Digital and Gig Economy

1734. Propose that Parliament should require the National Treasury, in consultation with the Ministry of Labour, workers' organizations, employers' organizations, and digital

platform companies, to develop a comprehensive legal and policy framework governing taxation, social protection, and labour rights within the digital economy. Kenya urgently requires a modern and inclusive framework that ensures gig and platform workers are progressively integrated into systems of taxation, pension coverage, health insurance, occupational safety protections, and labour rights protections without overburdening them economically.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.117 MARS WRIGLEY KENYA LIMITED

Clause 36 (a) (viii)

1735. Delete the clause and retain as it is in Part I of the First Schedule of the Excise Duty Act because the cost of production for locally processed confectionery products will rise immediately, putting pressure on the margins for producers, distributors and retailers. The increased cost poses a disruptive impact on the industry as it will increase the cost of production and raise prices of products in the local market. It will undermine the overall sustainability of the business, erode the gains made in positioning Kenya as a leading confectionery manufacturing hub in Africa, and negatively affect thousands of jobs and livelihoods across Mars Wrigley Kenya's value chain, including local entrepreneurs.

Committee Observation

The Committee considered the concerns expressed by Mars Wrigley Kenya Limited, and agreed that deleting the word "imported" from the excise duty provisions on sugar confectionery would extend the tax to locally manufactured products, increasing production costs and reducing the competitiveness of local manufacturers against imports from regional free trade areas. The Committee further noted that the proposal could lead to business closures, job losses, and reduced government revenue, while adversely affecting manufacturers that rely on imported raw materials such as refined sugar and liquid glucose, which already attract various import taxes and levies. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

3.3.118 OKOA UCHUMI

Clause 2(b)

1736. Amend to exclude interchange and merchant service fees from the definition of 'management or professional fee'. The Micro and Small Enterprises Act (Cap. 493C) mandates the protection of MSMEs. The National Payment Strategy 2022 - 2025(CBK) targets 80% digital transaction penetration. Taxing interchange fees at management fee

WHT rates will raise the cost of digital payments, harming both merchants and consumers.

Committee Observation

The Committee noted the concerns raised by Okoa Uchumi but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c) (vii)

1737. Delete sub-item (vii) from the royalty definition. Separately tax the digital payment infrastructure through targeted excise rather than WHT royalty classification. Further, Parliament should require the treasury to conduct a Financial Inclusion Impact Assessment before any measure that increases costs on the digital payment infrastructure is enacted. Define 'royalty' to align with the OECD and international tax standards.

Committee Observation

The Committee accepted the stakeholder's proposal and noted that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

Clause 4

1738. Amend to expressly provide the tax rate in the clause or explicitly amend the Third Schedule to include a 'Head C' or equivalent for non- resident rental income tax. Add a deemed agency provision where a resident collect rent for a non-resident. Article 10, Constitution. Existing s.35(3)(j), Cap. 470, already taxes resident-collected non-resident rent at 30% WHT. Inconsistency with this existing provision must be resolved. Tax Procedures Act, s.8 on registration and compliance framework must be clear.

Committee Observation

The Committee acknowledged the concerns raised by the Coalition, but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords

through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 6

1739. Amend to replace 'five days' with 'twenty working days', which will be consistent with WHT remittance standards under Section 35(5) of Cap. 470. Apply a force majeure provision for port delays and documentary processing. Tax Procedures Act, Section 38 indicated a general 20-day standard for WHT remittance. The proportionality principle as per Article 24, Constitution, is another significant factor. The Kenya Association of Manufacturers (KAM) and the Kenya International Freight and Warehousing Association (KIFWA) have previously flagged unrealistic tax timelines.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal to amend to twenty working days was not supported.

Clauses 7, 17 & 22

1740. Amend to have a minimum threshold of KShs.50,000 per transaction before WHT applies, to exempt subsistence waste-pickers from the compliance regime; registered jua kali operators should be excluded. They submitted that Kenya's gambling industry is dominated by large, politically connected operators. The WHT on winnings hits players, Scrap Metal Industries Act, 2015, the existing licensing regime for scrap metal dealers. Small-scale scrap traders are exempt from formal registration.

Committee Observation

The Committee acknowledged the concerns raised by Okoa Uchumi but was of the view that the proposed amendment provides a clear legal basis for taxing income from the sale of scrap metal, enhances traceability of transactions, addresses compliance challenges in the informal sector, and promotes fairness and consistency in the tax system

Clause 9

1741. Amend to have gender inclusive language in the Finance Bill and also across the entire Income Tax Act.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the existing framework limiting deductions to expenditure incurred in producing taxable income remains necessary to protect the tax base, while detailed guidance on bad debts and expense apportionment can be addressed through regulations or administrative guidance. The Committee further observed that broader drafting issues, including gender-inclusive language, may be considered during a comprehensive review of the Income Tax Act.

Clause 15

1742. Delete the proposal by extending the 3- year exemption period to 5 years, updating the programme parameters to align with the current Ajira Digital Programme scope, and broadening eligibility to include all KRA-registered gig economy workers earning below KES 1.2 million per annum.

Committee Observation

The Committee acknowledged the concern raised by the Coalition but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for administrative consistency.

Clauses 18 & 19

1743. Amend the proposal to retain 30th June deadline for all people with income sources, corporates or those with rental income, capital gains, or business income. The nil-return deadline of 31st January is unreasonable and should revert to 30th June.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to introduce revised filing timelines is intended to improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee however observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the

Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

New proposal
Amendment of PAYE Band.

1744. A new proviso be added in the Finance Bill,2026 immediately after section 28 (e) of the bill and read as follows: (f) by deleting paragraph 1(Under Head B-Rates of Tax) and substituting therefor the following new paragraph—

1745. The individual rates of tax shall be—

i.On the first Ksh. 30,000 -10%
ii.On the next Ksh. 8,333 - 20%
iii.On the next Ksh. 461,667 - 25%
iv.On the next Ksh. 300,000 - 27.5%

Committee Observation
The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores measures to cushion low-income earners.

Clause 25

1746. Amend the provision in the Act instead of deletion, by updating it to reflect current technology standards (AI, cloud, eTIMS) and cross-reference the Tax Procedures Act s.75 definitions for consistency. For deleting these definitions without replacing them in the body of the Act creates interpretive ambiguity for VAT audits and assessments conducted through TIMS/eTIMS. It may inadvertently undermine legal certainty around electronic VAT invoicing compliance, a system already plagued by SME adoption **challenges**. Courts may find it difficult to give legal effect to penalties imposed through electronic systems if the enabling definitions are removed. Tax Procedures Act, section 75 on electronic system definitions should be harmonized across all Tax Acts, not deleted. eTIMS rollout mandate (KRA 2024), requires clear statutory basis.

Committee Observation
The Committee acknowledged the concerns raised by Okoa Uchumi, but observed that the proposed amendment removes obsolete and redundant definitions, including references to provisions repealed under the Tax Procedures Act and terms that no longer appear elsewhere in the VAT Act, thereby aligning the statute with the current tax administration framework. The Committee further noted that the clean-up enhances

legislative clarity, coherence, and consistency in the application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 31(a)(ix) (Paragraphs 158–170)

1747. Amend to consider a 10% flat excise rate on phones below KES 15,000 to protect the affordable segments. For mitumba, extend VAT exemption to importation as well, consistent with the domestic supply exemption. Finance Bill 2023 (overturned Finance Act 2023), the previous phone VAT exemption removal caused public revolt. VAT Act, section 7, zero-rating and exemption must be clearly scoped.

Committee Observation

The Committee observed that the proposed amendment rationalises VAT exemptions on selected goods and services in order to broaden the tax base and enhance efficiency and equity in the VAT system. The Committee further noted that the proposal on worn clothes seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

Clause 31(b)(i)

1748. Retain the full VAT exemption for digital payment services accessible to the public (M-Pesa, mobile banking, agency banking). At most, limit the exemption removal to B2B payment processing platforms with monthly volumes exceeding KES 500 million. Cross-reference with the CBK Payment Service Provider (PSP) licensing framework to define the boundary. Financial Inclusion Report, According to CBK 2024, 87% of Kenyans use mobile money; removing the exemption will raise barriers for 15 million unbanked users. VAT Act, Section 2, 'financial services' has historically been interpreted broadly to include digital payments.

Committee Observation

The Committee acknowledged the concern raised by the Coalition, but observed that specifically referring to mobile money would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and

related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32 (Paragraph 11, 21, 29–35).

1749. Restore zero-rating (not just exemption) for these items. Zero- rating, not exemption, is the correct mechanism where the policy goal is to reduce consumer prices and support domestic manufacturing. Parliament should adopt a standing rule that no agricultural input, food production input, or essential medicine input may be reclassified from zero-rated to exempt without a published Food Security and Affordability Impact Assessment signed off by the Cabinet Secretaries for Agriculture, Health, and Finance jointly.

Committee Observation
The Committee agreed with Okoa Uchumi's proposal.

Clauses 34 & 35

1750. Retain excise duty at the point of importation (current system), where it is administratively cleaner. If activation-based taxation is unavoidable, cap it at one-time activation per device IMEI (not per SIM activation) and exempt IMEI transfers between users to avoid taxing second-hand phones repeatedly. National Tax Policy, Principle 2: '*Tax administration costs should not exceed the economic benefit of the tax measure.*'

Committee Observation
The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(i)

1751. Revert the excise on phones to 10% or below. Apply the higher rate (25%) only to premium phones above KES 30,000. Exempt locally assembled phones from excise for 5 years to protect nascent local assembly (Ngenye Electronics, Mobitek). This creates a clear incentive for local manufacturing. CA Kenya 2024 provides that Mobile internet usage is the primary digital gateway for 90% of Kenyans. Finance Bill 2023 was withdrawn partly due to public outcry over phone taxation. Article 43 provides that Access to information is a right; smartphones are the primary access tool.

Committee Observation

The Committee agreed with the concerns raised by the Coalition, and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 36(a)(xii)– (xxxiii)

1752. Restore the EAC Rules of Origin exclusions. Any decision to remove preferential treatment for EAC goods must be taken through the EAC Council of Ministers, not unilaterally through a domestic Finance Bill. Conduct a treaty compliance review before final enactment. EAC Treaty, Article 75, free movement of goods within the Community. EAC Customs Management Act, 2004, rules of origin framework. Vienna Convention on the Law of Treaties, Kenya cannot unilaterally override treaty obligations through domestic legislation. WTO TFA (Trade Facilitation Agreement), additional obligations against unilateral duty escalation.

Committee Observation

The Committee acknowledges the concerns raised by the Coalition, however, it observed that the proposal is a consequential clean-up aimed at aligning the tax base from customs value to excisable value and adjusting the specific rate in line with the revised definition of imports that excludes goods originating from EAC Partner States under the Rules of Origin. The Committee further noted that this alignment ensures consistency in the excise duty framework, eliminates potential inconsistencies in valuation, and promotes coherence in the application of tax provisions across the regional trade regime.

Clause 40

1753. Retain the PIN requirement for non-residents at investment banks but simplify the application process (online registration within 5 business days using passport and home-country tax ID). PIN anonymity for investment accounts is inconsistent with FATF requirements for beneficial ownership transparency. FATF ESAAMLG Mutual

Evaluation Report for Kenya (2022), Kenya was rated 'partially compliant' on beneficial ownership transparency. Removing PIN requirements for non-resident investment bank accounts will worsen this rating. Capital Markets Act, Cap. 485A requires identity verification for all account holders.

Committee Observation

The Committee acknowledged the concerns raised by stakeholders but observed that a targeted exemption from the PIN requirement for foreign investors opening CDSC accounts, noting that this facilitates capital market participation. The Committee further observed that extending the exemption to investment institutions would enhance efficiency in account opening processes while maintaining regulatory safeguards. In view of this, the Committee supported a balanced approach and recommended amending the provision to include financial institutions within the exemption framework, while ensuring appropriate measures are retained to safeguard compliance and transparency.

Clause 41

1754. Retain the anti-avoidance power but require;

i. a Principal Purpose Test (PPT) aligned with OECD BEPS Action 6 to define 'avoidance';
ii. the Commissioner to issue a proposed assessment and allow 60 days for taxpayer response before finalization;
iii. exclude routine commercial restructuring and EAC- compliant cross-border transactions;
iv. Tax Appeals Tribunal confirmation before assessments exceeding KES.50 million.

Committee Observation

The Committee acknowledged Okoa Uchumi's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

1755. Require best-judgment assessments to be based on verifiable income indicators (industry benchmarks, sector turnover data), not merely 'deemed necessity'. The

Commissioner should provide the taxpayer with the specific data and methodology used. Give a minimum 30-day response period before the assessment is finalized. Reverse the burden of proof to the Commissioner for assessments exceeding KES.500,000.

Committee Observation

The Committee acknowledged the Coalition's concern but held the view that the proposed introduction of Section 29A is intended to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 50

1756. Cap the penalty at the higher of KES 50,000 or 25% of the tax due (not 200%). Create an explicit 'reasonable cause' exemption that covers network outages, power failures, KRA system downtime, and new registrant grace periods. Require KRA to publish monthly eTIMS uptime data; if system availability falls below 99%, the penalty framework should be suspended.

Committee Observation

The Committee acknowledged the concern raised by the Okoa Uchumi. However, it supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 55

1757. Exempt phones below KES 10,000 from IDF and RDL in the same way budget phones are recognized as essential access devices globally. If IDF/RDL on phones is retained, coordinate with Clause 36 excise duty so the combined tax burden does not exceed 20% of the excisable value for basic phones. National Tax Policy, Principle 3

dictates 'tax expenditure design shall account for the cumulative burden across different taxes.' CA Kenya (2024) report records that 62% of first-time phone buyers buy phones under KES 8,000. Human rights principle on digital access are increasingly a prerequisite for access to government services, banking, health information, and education.

Committee Observation

The Committee noted the concerns expressed by Okoa Uchumi and resolved to delete the proposal in the Bill.

3.3.119 MAERSK

Clause 6

1758. Amend Clause 6 of the Bill to require freight tax to be paid monthly by the 20th day of the month following that in which the income is earned instead of within five days after payment is received or the ship leaves the port of lading, whichever is earlier. The introduction of a payment timeline for freight tax is necessary, but the proposed five-day deadline is impractical for the shipping industry because freight charges and related costs are often finalized and invoiced after a vessel has sailed. They propose replacing the five-day deadline with a monthly remittance framework similar to the one previously applied under the Income Tax Act. Therefore, Section 9 of the Income Tax Act be amended by inserting a new subsection (1A) to provide that freight tax shall be payable monthly not later than the twentieth day of the month succeeding that in which the income is earned.

Committee Observation

The Committee acknowledged the concerns raised by MAERSK but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clause 17

1759. Delete Section 35(1)(u) of the Income Tax Act to remove the withholding tax mechanism on freight tax introduced in 2025 and restore the previous framework under which agents account for and remit the tax directly. While supporting this amendment, it is proposed that Clause 6 be revised to provide a practical timeline for the payment and remittance of the tax to facilitate compliance by affected taxpayers.

Committee Observation

The Committee concurred with the concerns of MAERSK regarding the proposed repeal of the exemption on payments by the national carrier to non-resident service providers, that it would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. The Committee further noted the potential adverse impact on competitiveness and operational efficiency of the national carrier and therefore recommended deletion of the proposal.

New proposal

1760. Amend Section 47(2) of the Income Tax Act to allow non-resident ship owners or charterers to appoint shipping agents as their authorized representatives for the collection and remittance of freight tax under Section 9(1), subject to notification to the Commissioner. The amendment seeks to provide legal clarity on the role of shipping agents in freight tax administration and strengthen compliance obligations.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.120 SUN KING

Clause 32 (c)

1761. Retain zero-rated VAT for locally assembled phones. They submitted that a 34% price increase would make their entry-level smartphones priced for low-income consumers, such as blue-collar workers, boda boda riders, small traders, and rural households, uncompetitive.

Committee Observation

The Committee acknowledged the concerns raised by SUN KING and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 36 (a) (i)

1762. Retain the current 0% rate for locally assembled phones, preserving the deliberate differential that has supported domestic assembly. They stated that, should complete retention of the 0% rate not be feasible, they proposed a reduction to 1% as an alternative, which would still preserve a meaningful differential in favour of local assembly while moving in the direction of the Bill's unified phone excise regime.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 55

1763. Extend IDF, RDL, and VAT exemptions to imported components and SKD/CKD kits used in local phone assembly.

Committee Observation

The committee noted the concerns of the stakeholder and resolved to delete the proposal in the Bill

3.3.121 ODERO AND PARTNERS

New proposal

1764. Amend Part 1 of the First Schedule to the Excise Duty Act (Cap 472) by deleting the description relating to electric transformers and substituting therefor the following description relating to electric transformers and substituting therefor the following new description:

> *'Imported Fully Assembled liquid dielectric transformers, but excluding unassembled liquid dielectric transformers of tariff code 8504.21.00 imported by an approved local manufacturer or assembler'*

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.122 MR. ZACCHAEUS MUNUHE

Clause 36 (a)

1765. Delete the proposal on 25% Excise Duty on Mobile Phones. This proposal will increase the cost of smartphones and communication devices. Further, Students, online workers, digital entrepreneurs, and ordinary citizens rely heavily on affordable smartphones for education, work, and access to government services.

Committee Observation

The Committee agreed with the concerns raised by Mr. Munuhe and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to

communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (b) in Part II (i)

1766. Delete this proposal: 16% VAT on Digital Payment and Financial Transaction Services will indirectly increase phone prices, limit access to digital opportunities, and weaken efforts toward digital inclusion. The proposal may widen inequality between low-income and high-income citizens.

1767. Further, the proposal increases the cost of using mobile money and digital payment platforms such as M-Pesa. Ordinary Kenyans depend on digital transactions daily for transport, shopping, business, and family support. Higher transaction costs will disproportionately hurt low-income earners and small businesses. The measure discourages cashless transactions despite government efforts promoting digital economy growth.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Munuhe but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Residential Rental Income Tax

1768. Delete the proposal to increase the Residential Rental Income Tax from 7.5% to 10%**,** noting that the increase is likely to be passed on to tenants through higher rental charges. This would further raise the cost of living, particularly for students, workers, and low-income households who already face significant housing affordability challenges in urban areas. In addition, the proposal could undermine the Government's affordable housing agenda by making rental accommodation less accessible and affordable for many Kenyans.

Committee Observation

The Committee noted the concern by Mr. Munuhe but residential rental income tax is not one of the clauses being considered for in the Bill.

Clause 42

1769. Delete the proposal to expand the Kenya Revenue Authority's financial monitoring and data collection powers, as it raises significant concerns regarding the privacy and protection of citizens' financial information. Granting broad access to transaction data may expose individuals to the misuse of personal financial information and could conflict with the constitutional right to privacy guaranteed under Article 31 of the Constitution of Kenya. Further, reliance on automated financial data may result in inaccurate or unfair tax assessments, placing an undue burden on taxpayers and undermining public confidence in the tax administration system.

Committee Observation

The Committee acknowledged Mr. Munuhe's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 38

1770. Delete the proposals to introduce additional taxation and reporting requirements on crypto and virtual assets, as it may discourage innovation and investment in Kenya's growing blockchain and digital asset sector. The proposed reporting obligations could impose significant compliance costs on startups and young innovators while driving digital asset activities into informal channels rather than promoting effective regulation. Consequently, the proposal risks undermining Kenya's competitiveness as a regional hub for emerging technologies and digital innovation.

Committee Observation

The Committee acknowledged Mr. Munuhe's concern but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder concerns.

Clause 31 (a) (ix)169

1771. Delete the proposal imposing additional taxes and levies on second-hand clothing (mitumba) and other low-cost imported goods, as these products are essential sources

of affordable clothing and household items for millions of Kenyans. Increasing the tax burden on such goods is likely to raise the cost of basic necessities, reduce the profitability of small traders and informal businesses, and suppress consumer demand. The proposal would disproportionately affect low-income households, thereby increasing the cost of living and undermining livelihoods in the informal sector.

Committee Observation

The Committee noted Mr. Munuhe's proposal for deletion but observed that the amendment seeks to exempt VAT on worn clothing and footwear by clarifying the point of taxation and facilitating effective tax administration within the predominantly informal mitumba sector. The Committee further noted the submissions by the Mitumba Consortium advocating for a single tax regime operating as a final tax. Consequently, the Committee recommended the introduction of a new provision in the Income Tax Act to deem taxable profit at five per cent of the customs value of imported worn clothing and footwear, with tax payable at importation as a final tax.

3.3.123 MR. ANTHONY MANYARA- UNIVERSITY STUDENT ASSOCIATION LEADER

Clause 42

1772. Amend the clause to insert the following additional safeguards in Section 42 of the Tax Procedures Act, Cap 469B:

a) *A registered taxpayer shall receive prior written notice before any automated assessment becomes legally effective;*
b) *Full disclosure of all information and data relied upon in generating the automated assessment shall be provided to the taxpayer;*
c) *A minimum period of thirty (30) days shall be afforded to the taxpayer to respond, challenge or provide contrary information;*
d) *Mandatory human review by a designated KRA officer shall be required before any automated assessment is finalized;*
e) *All enforcement action shall be suspended where a valid objection or appeal against the assessment remains pending before the Commissioner or any court or tribunal.*

1773. Constitutional Right to Fair Administrative Action. Article 47(1) of the Constitution guarantees every person the right to administrative action that is lawful, reasonable and procedurally fair. Article 47(2) further guarantees the right to written reasons for any administrative action that adversely affects a person's rights or interests. Automated assessments that take effect without notice, disclosure or a hearing directly violate Article 47.

1774. Right to a Fair Hearing. Article 50(1) of the Constitution guarantees every person the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body. Enforcement based on automated assessments without an opportunity to be heard offends this guarantee.

Committee Observation

The Committee acknowledged Mr. Manyara's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1775. Amend the proposal to insert the following additional safeguards in Section 45 of the Tax Procedures Act, Cap 469B:

a) Agency notices shall not take effect and shall be held in abeyance where the taxpayer has filed a valid objection or appeal that remains pending before the Commissioner, the Tax Appeals Tribunal, or any court of competent jurisdiction;

b) Account-freezing measures shall be subject to enhanced procedural safeguards, including prior judicial or quasi-judicial authorisation; Article 40(1) of the Constitution guarantees every person the right to acquire and own property.

c) Educational support funds, including HELB loan disbursements, bursaries, scholarships and educational grants, shall be expressly exempt from agency notice and account-freezing action;

d) Enforcement action shall be proportionate to the amount in dispute and shall not be deployed against assets whose value significantly exceeds the assessed tax liability.

1776. Section 32 of the Tax Appeals Tribunal Act provides that the Tribunal may grant a stay of enforcement pending the determination of an appeal. Clause 45, as currently drafted, risks undermining this statutory protection by enabling parallel enforcement while appeal proceedings are ongoing.

Committee Observation

The Committee considered the concerns raised by Mr. Manyara and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right

of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 55

1777. Amend Clause 55 of the Finance Bill, 2026 to ensure:

i. No provision results in an increase in the cost of basic smartphones and entry-level digital devices to the consumer;

ii. Locally assembled smartphones and educational digital devices are expressly zero- rated or exempted;

iii. Imports of smartphones and digital devices used primarily for educational purposes attract the most favourable available tariff classification;

iv. Any new tax measures introduced under Clause 55 are accompanied by a digital-inclusion impact assessment tabled before Parliament before enactment.

1778. Article 43(1)(f) of the Constitution guarantees every person the right to education. In an era of digital learning, a smartphone is an essential educational tool. The Finance Bill, 2026 already recognises this in Part A of the Second Schedule to Cap 476 (gazette p. 1054), which zero-rates locally assembled and manufactured mobile phones (paragraph 29). Any measure under Clause 55 that undermines this exemption would be regressive and constitutionally inconsistent.

Committee Observation

The Committee noted the concerns raised by Mr. Manyara and resolved to delete the proposal in the Bill.

New Proposal

1779. Insert in the Tax Procedures Act, Cap 469B, a new provision to the following effect:

"Notwithstanding any other provision of this Act, the following shall not constitute taxable income and shall not be subject to automated assessment, agency notice or enforcement action under this Act:

Higher Education Loans Board (HELB) loan disbursements made pursuant to the Higher Education Loans Board Act (No. 3 of 1995);

i. Scholarships, bursaries and educational grants awarded by the Government, county governments, public universities, registered educational institutions, or recognised charitable organisations;

ii. Educational grants disbursed under any Act of Parliament for the specific purpose of facilitating access to education or vocational training."

1780. HELB loans are repayable upon completion of studies and securing of employment. They are debt instruments, not income. Bursaries and scholarships are conditional grants for educational purposes. None of these instruments meet the legal definition of 'income' under Section 3 of the Income Tax Act, Cap 470, which defines income as including gains or profits from employment, business, property or investment. Educational support funds fall outside all four categories.

Committee Observation

The Committee noted the proposal by Mr. Manyara and proposed to undertake research and stakeholder consultation.

New proposal

1781. Insert in Part A of the Second Schedule to the VAT Act, Cap 476 (Zero-Rated Supplies, s. 7(2)) as proposed to be amended by the Finance Bill 2026, the following new entry after paragraph 35:

"36. Condoms (male and female), whether lubricated or unlubricated, including latex, polyurethane and polyisoprene variants, classifiable under HS Code 4014.10.00."

1782. Following reclassification of condoms as standard- rated in 2022, retail prices rose by approximately 75% (KNBS). A packet previously retailing at ~KSh 50 now costs ~KSh 90. The Government collects only ~KSh 15 in VAT per packet. The remaining KSh 25 price increase represents supply- chain cost amplification entirely borne by the consumer.

Committee Observation

The Committee noted the proposal by Mr. Manyara. However, it noted that these products are high commodity goods and will lead to revenue loss.

New proposal

1783. Insert in the Tax Procedures Act, Cap 469B, a new provision to the following effect:

"The filing of a nil return by a person who has no taxable income shall not, by reason only of that filing:

a) trigger an automated tax assessment under Section 42;
b) constitute grounds for the issuance of an agency notice under Section 45;
c) be used as an adverse indicator in any tax compliance risk profiling system operated by the Commissioner;

d) result in any penalty, demand notice or enforcement action under this Act."

1784. Section 3 of the Income Tax Act, Cap 470 defines income as gains or profits from employment, business, property or investment. A person who has earned nothing in a tax year has no taxable income by statutory definition.

Committee Observation

The Committee noted the proposal by Mr. Manyara, however, it noted that nil returns are simple and non-technical to prepare and submit.

New proposal

1785. Amend the Income Tax Act, Cap 470 through the Finance Bill, 2026 to provide:

a) A three-year income for registered youth- led enterprises (being enterprises in which at least 51% of ownership is held by persons aged 35 years or below at the time of registration);

b) A reduced corporate tax rate of 15% for qualifying youth- led enterprises in years four to seven of operation;

c) Simplified compliance and filing procedures for enterprises with annual turnover below KSh 5 million;

d) An investment tax credit of 30% for capital expenditure incurred by qualifying youth- led enterprises in the technology, agri-business and manufacturing sectors;

e) An apprenticeship tax deduction allowing youth- led enterprises to deduct 150% of wages paid to first-time employees aged 35 or below.

1786. The Finance Act 2023 introduced a reduced corporate tax rate for newly listed companies. The Special Economic Zones Act (No. 16 of 2015) provides significant tax incentives to enterprises operating in designated zones. The principle of differentiated tax treatment for enterprises at different stages of development is well- established in Kenyan tax law. Extending this principle to youth-led start-ups is a natural and constitutionally consistent progression.

Committee Observation

The Committee noted the proposal by Mr. Manyara. However, implementing a 3-year tax holiday for youth-led startups, erodes the corporate tax base and introduces age-based discrimination that is administratively unfeasible and easily exploited through proxy business ownership.

General Proposal

1787. That Parliament, through the Committee, require:

i. All major exemptions and incentives contained in or proposed by the Finance Bill, 2026 be subjected to a public benefit assessment, a distributional equity analysis and a fiscal impact review before the Bill proceeds to Third Reading; A

written report setting out the results of such assessments be tabled before Parliament and made available to the public;

ii. Any exemption or incentive that cannot demonstrate a net public benefit or That disproportionately benefits upper- income entities without corresponding public benefit be reconsidered or removed;

Committee Observation

The Committee noted Mr. Manyara's proposal and observed that tax exemptions and incentives should be guided by clear public policy objectives, fiscal sustainability, and equity considerations. The Committee further observed the importance of assessing the impact of such measures to support informed legislative decision-making.

3.3.124 NATIONAL COUNCIL OF CHURCHES OF KENYA (NCCK)

Clause 42

1788. Delete the clause and add provisions to require tax-expenditure disclosures, pending bills settlement plans, debt transparency, supplementary budget controls, and publication of audit follow-up actions. Kenyans are being asked to bear greater burdens and surrender basic rights without matching accountability.

Committee Observation

The Committee acknowledged NCCK's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 36

1789. Delete the clause and propose safeguards to food security, health, green transition, and digital inclusion. Consideration of the provisions individually masks the cumulative burden being laid on low-income households, the youth, informal workers and small-scale businesses.

Committee Observation

The Committee noted NCCK's proposal and observed the need to balance revenue measures with broader policy objectives, including food security,

public health, environmental sustainability, digital inclusion, and the protection of vulnerable groups.

Clause 2 (b)

1790. Delete the amendment because it will subject payment fees, including Mpesa, Visa, Mastercard, etc, to withholding tax 5% (residents) and 20% (non-residents), increasing the cost of digital transactions for merchants and consumers. This will push merchants to use cash transactions, which increases security risks, in addition to contradicting the government's financial inclusion agenda.

Committee Observation

The Committee noted the concerns raised by NCCK but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

1791. Delete the sub-clause (vii) and instead tax digital payment infrastructure through targeted excise rather than withholding tax. It will convert ordinary service and payment processing charges (including Mpesa, Visa, Mastercard, Flutterwave and every fintech payment platform) into royalties, causing them to attract 20% withholding tax and therefore double taxation when applied alongside Clause 2 (b). Payment processing should not be deemed royalty merely because it uses a platform.

Committee Observation

The Committee acknowledged NCCK's concerns but observed that the proposal seeks to clarify the tax treatment of income derived from the use of digital platforms and technologies, while enhancing tax certainty, compliance, and administration within the digital economy.

Clause 4

1792. Amend the clause to state the tax rate or amend the Third Schedule to include a 'Head C' or equivalent for non-resident rental income tax. Add a deemed agency provision where a resident collect rent for a non-resident. The rate is not specified in the clause; it says 'the rate specified in the Third Schedule', but no corresponding Head

is inserted in the Third Schedule by this Bill. This is a legislative lacuna that makes the provision unenforceable.

Committee Observation

The Committee acknowledged NCCK's concerns but noted that the amendment seeks to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already addresses double taxation where tax has been withheld by an appointed agent, while implementation issues can be addressed administratively.

Clause 6

1793. Amend the clause to replace 'five days' with 'twenty working days', which will be consistent with WHT remittance standards under s.35(5) of Cap. 470. Five days is an impossibly short compliance window for an industry managing complex international freight logistics. Port clearance, documentation, and foreign currency settlements routinely take 7–21 days. This will create routine technical defaults, triggering penalties on otherwise compliant operators, unless the government wants to raise more income from penalties than the payable taxes.

Committee Observation

The Committee acknowledged the concerns raised by NCCK but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clauses 7,17 and 22

1794. Amend the clause and set a minimum threshold of KSh 50,000 per transaction before WHT on sale of scrap metal that applies to exempt subsistence wastepickers from the compliance regime. The government should simultaneously impose windfall levies on gambling operators' profits. Including scrap metal sales as taxable income under section 10 (management fees/royalties' framework) is a misclassification; scrap metal is a physical commodity, not a service payment. The 1.5% WHT on scrap metal sales (per Clause 22) is disproportionately high for Jua Kali metal workers who already operate on razor-thin margins.

Committee Observation

The Committee acknowledged NCCK's concerns but observed that the proposed withholding tax on scrap metal seeks to formalize the sector, improve traceability of transactions, reduce revenue leakage, and enhance tax compliance and collection within a sector characterized by significant informality. The Committee therefore resolved not to amend as proposed.

Clause 9

1795. Amend to have gender inclusive language in the Finance Bill and also across the entire Income Tax Act. The clause uses masculine language.

Committee Observation

The Committee observed that broader drafting issues, including gender-inclusive language, may be considered during a comprehensive review of the Income Tax Act.

Clause 15

1796. Delete the clause and instead propose that Parliament amend the First Schedule to extend the Ajira Digital exemption to 5 years, and to broaden eligibility to include all KRA-registered gig economy workers earning below KES 1.2 million per annum. Repealing Section 23A removes a key incentive for youth participation in the digital/gig economy.

Committee Observation

The Committee acknowledged the concerns raised by NCCK but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for administrative consistency. The Committee therefore resolved not to amend as proposed by NCCK.

Clauses 18,19

1797. Delete the clauses and retain the current 30th June deadline. Compressing the filing window by two months significantly increases compliance costs for corporations, partnerships and professionals who require completed audit financials before filing accurate tax returns. The nil-return deadline of 31st January is particularly aggressive and will disproportionately affect informal sector operators, sole traders and small businesses who have limited access to accountants and tax agents.

Committee Observation

The Committee acknowledged the concerns of NCCK and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Amendment of PAYE Band

1798. Add a new proviso immediately after section 28 (e) of the Bill to read as follows;

"(f) by deleting paragraph 1 (Under Head B-Rates of Tax) and substituting therefor the following new paragraph— 1. The individual rates of tax shall be— Monthly Income Band (Ksh) Rate in each shilling Monthly Pay Bands (Ksh) Rate of Tax (%) On the first Ksh. 30,000 - 10% On the next Ksh. 8,333 - 20% On the next Ksh. 461,667 - 25% On the next Ksh. 300,000 -27.5% on amounts over Ksh 800,000 - 30%"

1799. It is a fundamental contradiction that an individual Kenyan worker pays a marginal income tax rate of 35%, which is five percentage points higher than the corporate tax rate of 30%, despite having no ability to deduct the basic costs of living from their taxable income, as corporations do with business expenses. Kenya is taxing its people harder than it taxes its companies.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

Clause 25

1800. Amend to reflect current technology standards (AI, cloud, eTIMS) and cross-reference the Tax Procedures Act s.75 definitions for consistency. Deleting these definitions without replacing them in the body of the Act creates interpretive ambiguity for VAT audits and assessments conducted through TIMS/eTIMS.

Committee Observation

The Committee acknowledged the concerns raised by NCCK but observed that the proposed amendment seeks to remove obsolete and redundant

definitions, including references to provisions repealed under the Tax Procedures Act and terms that no longer appear elsewhere in the VAT Act, thereby aligning the statute with the current tax administration framework. The Committee further noted that the clean-up enhances legislative clarity, coherence, and consistency in the application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 31(a)(ix)

1801. Amend to consider a 10% flat excise rate on all phones to ensure affordability and grow digital inclusion. For mitumba, extend VAT exemption to importation as well, consistent with the domestic supply exemption. The VAT exemption on mobile phones may not reduce consumer prices if excise is passed through first. Exempting second-hand clothing from VAT on domestic supply only (not importation) is discriminatory between domestic traders and importers, effectively maintaining a cost barrier that benefits existing large importers.

Committee Observation

The Committee acknowledged the concerns raised by NCCK and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 31(b)(i)

1802. Delete the Clause to retain the full VAT exemption for digital payment services accessible to the public (M-Pesa, mobile banking, agency banking). At most, limit the exemption removal to B2B payment processing platforms with monthly volumes exceeding KES 500 million. This is the most significant and regressive VAT change in the Bill. Removing this exemption will impose 16% VAT on every digital transaction fee: every M-Pesa send, every merchant payment, every RTGS settlement and cost will be passed on to consumers.

Committee Observation

The Committee acknowledged the concerns raised by NCCK but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a

clear definition of "payment service provider" to ensure certainty, consistency and effective application of the law as contained in the Bill.

Clause 32

1803. Delete the clause to restore zero-rating. Zero-rating, not exemption, is the correct mechanism where the policy goal is to reduce consumer prices and support domestic manufacturing. Moving the items from zero-rated to exempt does not reduce consumer prices, it removes the manufacturer's right to claim back input VAT, thus increasing production costs.

Committee Observation

The Committee acknowledged NCCK's concerns and observed that the proposal seeks to rationalize VAT expenditures and broaden the tax base while balancing revenue considerations with broader fiscal policy objectives. However, the Committee agreed with the stakeholder that sub clauses- (a) to (h) within clause 32 should be retained as zero rated.

Clauses 34, 35

1804. Delete the Clause to retain excise duty at the point of importation. This is a SIM-tax by another name, whereby every time a phone is activated on a network, duty becomes payable. The delegated regulatory power by the CS is excessively broad for a measure with such significant consumer impact.

Committee Observation

The Committee acknowledged the concerns raised by NCCK and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee agreed with the stakeholder and recommended deletion of the proposal.

Clause 36(a)(i)

1805. Amend the clause to revert the excise on phones to 10% or below. Apply the higher rate (25%) only to premium phones above KES 30,000, and exempt locally assembled phones from excise for 5 years to protect nascent local assembly. This is a 150% increase in excise on phones. Locally assembled phones are taxed at 25%, removing the incentive for the Electronics City SEZ and local assembly.

Committee Observation

The Committee agreed with the concerns raised by NCCK and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 36(a)(xiii)–(xxxiii)

1806. Delete the clause and retain it as is because it potentially violates Kenya's treaty obligations under the East African Community Treaty (Articles 75, 76) and the EAC Customs Management Act regarding preferential tariff treatment for Partner State goods.

Committee Observation

The Committee noted NCCK's proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 40

1807. Delete the clause to retain it as is. Providing a PIN exemption for non-residents at investment banks creates an anonymity shield for foreign investors that does not exist for Kenyan residents.

Committee Observation

The Committee acknowledged the concerns raised by NCCK but supported a targeted exemption from the PIN requirement for foreign investors opening CDSC accounts, noting that this facilitates capital market participation. The Committee further observed that extending the exemption to investment institutions would enhance efficiency in account opening processes while maintaining regulatory safeguards. In view of this, the Committee supported a balanced approach and recommended amending the provision to include financial institutions within the exemption framework, while ensuring appropriate measures are retained to safeguard compliance and transparency.

Clause 41

1808. Delete the clause because the provision grants the Commissioner extraordinary unilateral power with a 5-year lookback period. There is no requirement for the Commissioner to obtain Tax Appeals Tribunal or court approval before issuing the reassessment. This violates due process and natural justice; a taxpayer could be assessed under s.18A simultaneously with being prosecuted for the same transaction.

Committee Observation

The Committee noted NCCK's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement. Therefore, the proposed amendments will provide safeguards to taxpayers.

Clause 42

1809. Delete the clause and (i) require best-judgment assessments to be based on verifiable income indicators (ii) give a minimum 30-day response period before assessment is finalized. (iii) Reverse the burden of proof to the Commissioner for tax assessments (iv) require court orders for access to individuals or company private records. The burden of proof reversal, taxpayers must disprove KRA's estimate, is particularly punishing for informal traders, boda-boda operators and hawkers who rarely maintain formal records. It gives KRA undeterred surveillance of Kenyans in contravention of the privacy guaranteed in the Constitution and the Data Protection Act.

Committee Observation

The Committee acknowledged the concerns raised by NCCK but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 50

1810. Delete the Clause and instead cap the penalty at the higher of KES 50,000 or 25% of the tax due. Increasing the penalty to two times the tax component makes this potentially the highest proportional penalty in the Tax Procedures Act. Tax compliance systems should incentivize voluntary compliance rather than create enforcement environments vulnerable to rent-seeking behaviour.

Committee Observation

The Committee noted the concerns raised by NCCK but supported the proposed amendment to strengthen penalties for non-compliance with

electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, one hundred thousand shillings for corporates while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 55

1811. Amend the clause to exempt phones below KES 10,000 from the Import Declaration Fee and Railway Development Levy in the same way budget phones are recognized as essential access devices. The total effective levy on an imported smartphone could approach 60–70% of the ex-factory value. A KES 5,000 smartphone effectively becomes unaffordable for low-income buyers.

Committee Observation

The committee noted the concerns raised by NCCK however, it resolved to delete the proposal in the Bill

3.3.125 **MAK & PARTNERS ADVOCATES**

Clause 2 (b)

1812. Delete the proposed definition of "management and professional fees" and "royalty" from the Bill in its entirety because it undermines judicial authority and tax certainty, practical difficulty in identifying the tax base, the WHT payer and increased cost of financial services to consumers and increased tax cost in the provision of financial services.

Committee Observation

The Committee noted the concern raised by MAK & Partners Advocates but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

1813. Delete the clause because should the proposed legislative amendment be enacted as it is currently penned, it would result in the blanket classification of all software-related payments as "royalties" for tax purposes, thereby rendering them subject to withholding tax.

Committee Observation

The Committee noted the concern raised by MAK & Partners but did not agree with the proposal to delete the entire clause.

Clause 4

1814. Amend paragraph 10 of the Third Schedule to introduce a non-resident tax rate of seven-point five percent of the gross rental receipts of a taxable non-resident person under Section 6B to align with the prescribed rate applicable to resident rental income tax. The proposed Clause makes no reference to the currently applicable rates, which may lead to uncertainty in its implementation. The proposal fails to clarify whether the WHT on the rental income as espoused under Section 35 of the ITA which may effectively expose the taxpayer to concurrent tax obligations on the same income.

Committee Observation

The Committee acknowledged the concern raised by MAK & Partners Advocates but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework. The committee therefore does not agree with the proposal to amend the non-resident tax rate

Clause 16

1815. Delete the proposal from the Bill and retain it as it is in the ITA. Deemed dividends create an additional withholding tax obligation on income that has not been paid out. By treating up to 60% of undistributed earnings as deemed dividends, business face the risk of severely crippling of corporate growth.

Committee Observation

The Committee acknowledged the concerns raised by MAK & Partners Advocates and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary

burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19

1816. Delete the amendment because compressing the deadline to four months places simultaneous pressure on taxpayers, auditors, financial institutions and accountants at the same point in the year, creating systemic bottlenecks that no individual taxpayer can resolve unilaterally.

Committee Observation

The Committee noted MAK & Partners Advocates' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22 (a)

1817. Delete the proposal because by removing the tax incentive, the Government undermines its own policy goal. Developers will have less capital to scale up housing production, while new entrants will be discouraged by reduced returns on investment. Retaining the tax rebate ensures this balance is preserved.

Committee Observation

The Committee acknowledged the concerns raised by MAK & Partners Advocates but observed that the proposed amendment repeals the preferential corporation tax rate of 15 percent for qualifying housing developers to address revenue leakage and ensure that tax incentives are better aligned with the intended housing policy objectives.

1818. Amend to clean-up of Paragraph 2(i) of Head B of the Third Schedule to the Income Tax Act by deleting the word "for" immediately after the words "at least" and replacing it with the word "one" to align with the amendment introduced in the Finance Act, 2023, to read as follows:

"(i) in the case of a company that constructed at least one hundred residential units annually, fifteen per cent for that year of income, subject to approval by the Cabinet Secretary responsible for housing,

Provided that where a company is engaged in multiple activities which include the ones specified in subparagraph (i), the rate of fifteen per cent shall be applied proportionately to the extent of the turnover arising from the housing activity."

1819. Real Estate developments are capital intensive, and developers plan projects over 5–7-year horizons. Repealing the tax incentive now, just two years after the operational threshold was clarified, creates an unpredictable tax environment that violates investment expectations and risks capital flight, especially from foreign developers and housing financiers.

Committee Observation

The Committee noted the proposal by MAK & Partners and proposed to undertake research and stakeholder consultation.

Clause 23 (b)

1820. Amend the clause so that the application of this proposed provision be limited to where more than 50% of the value of shares is attributable to immovable property in Kenya. The proposal as currently drafted in the Bill introduces the risk of double taxation at both corporate and shareholder levels.

Committee Observation

The Committee noted the concerns raised by MAK & Partners but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework. The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposal for deletion or amendment and recommended that the clause be retained.

Clause 45

1821. Delete the clause because the proposed amendment violates the Constitutional protection of the right to property. Further, permitting the Commissioner in law to issue agency notices where a taxpayer has lodged an appeal has the risk of rendering the appeal nugatory.

Committee Observation

The Committee considered the concerns raised by MAK & Partners and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 41

1822. Amend the clause to the proposed Section 18A (1) as follows:

"(1) This section applies where the Commissioner determines that a transaction, operation, scheme, agreement, or understanding ("an arrangement") constitutes a tax avoidance arrangement as defined in this section.

(2) For the purposes of this section, an arrangement is a tax avoidance arrangement only where — (a) it results in a tax benefit for any person; and (b) the sole or dominant purpose for which the arrangement was entered into or carried out was to obtain that tax benefit, having regard to the substance of the arrangement and all relevant circumstances; and (c) the arrangement lacks commercial substance, in that — (i) it does not have a significant effect upon the business risks, rights, obligations, or net cash flows of the parties, apart from the tax effects; or (ii) it involves a misuse or abuse of the provisions of this Act or any other tax law, read in context.

(3) An arrangement is not a tax avoidance arrangement for the purposes of this section where — (a) the tax benefit results from the specific application of an express exemption, incentive, concession, or relief provided by the Income Tax Act, the Excise Duty Act, the Value Added Tax Act, or any other written law, being a benefit that is expressly intended to confer on persons in the circumstances of the taxpayer.

(4) Where the Commissioner makes a determination under paragraph (1) above, the burden shall be on the Commissioner to prove the tax avoidance scheme."

1823. As drafted, the proposed Section 18A is dangerously overbroad. Its language captures not only abusive avoidance schemes but also corporate and legal structure may inadvertently be caught up under the general anti-avoidance rules since their structures "have the purpose and effect" of qualifying for tax benefits under the tax laws.

Committee Observation

The Committee noted MAK & Partners concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax

framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 38

1824. Amend Clause 1(a) of the Bill to read as follows:

"1. This Act may be cited as the Finance Act, 2026, and shall come into operation as follows- (a) on 1st January, 2027, sections 19, 20, 25, 35, 36, 37(a)(i), 38, 59(a)(ii), 59(b)(ii), 32(a)(x) new paragraph 163;"

1825. This proposal is to the effect that the commencement date of this provision be 1st January 2027. A deferred commencement date would provide Virtual Assets Providers (VASPs) with sufficient time to establish the necessary compliance systems, reporting frameworks, and technical capacity required to meet the new obligations, while enabling the Cabinet Secretary to issue appropriate guidelines and implementation frameworks.

Committee Observation

The Committee acknowledged MAK & Partners proposal but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee does not agree with the proposed amendment to include clause 38 in the commencement clause to take effect on the 1st of January 2027.

Clause 47

1826. Delete the proposal because the amendment would effectively compel taxpayers to make cash payments for import VAT notwithstanding the existence of excess tax credits already held by the Commissioner. This would create unnecessary working capital constraints, especially for manufacturers, traders, and exporters with significant import volumes and recurring excess tax positions.

Committee Observation

The Committee considered the concerns raised by MAK & Partners and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite

holding verified tax credits. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 49

1827. Delete the proposal because the exclusion of weekends and public holidays from the computation of time to lodge objections and appeals unfairly prejudices parties in a tax dispute from adequately preparing their objections and appeals.

Committee Observation

The Committee considered the concerns raised by MAK & Partners and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 50

1828. Amend the clause on Section 86 (1) of the TPA to read as follows:

"(1) Where the Commissioner determines that a taxpayer has failed to comply with the requirement under a tax law to issue an electronic tax invoice, submit a tax return in electronic form, or pay tax electronically pursuant to section 75, the Commissioner shall issue a notice in writing to the taxpayer requiring the taxpayer to provide reasons for the non-compliance and the notice shall operate as a tax decision."

1829. The proposal, as currently drafted, fails to provide the timelines within which the taxpayer may challenge the notice for failure to comply with an electronic tax system. The proposed amendment aligns the proposal to Section 51 of the TPA, which houses the statutory dispute resolution mechanism and the timelines within which a taxpayer may object to a tax decision.

Committee Observation

The Committee noted the proposal by MAK & Partners but was of the view that the timeline is already provided for in the Tax Procedures Act and therefore did not agree to the proposed amendment.

Clause 27

1830. Delete the clause because the provision creates a retrospective tax burden, is inequitable as taxpayers have no foresight over subsequent policy decisions that reclassify supplies from taxable to exempt status, is likely to create significant

uncertainty and additional compliance costs for businesses holding substantial inventories, and undermines the neutrality principle of taxation.

Committee Observation

The Committee appreciated the concern raised by MAK & Partners but observed that the proposed section establishes a clear and necessary VAT adjustment mechanism to ensure that input tax previously claimed is reversed where goods or services subsequently become attributable to exempt supplies, thereby upholding the fundamental principle that input tax is deductible only to the extent that it relates to taxable supplies.

The Committee further noted that the amendment is not retrospective, as it is being highlighted by some stakeholders, as it does not affect input tax properly claimed under the law at the time, but only provides for adjustment where the VAT status of goods changes, ensuring neutrality, consistency, and protection of the VAT base while avoiding retention of credits in respect of exempt supplies. In view of this, the Committee recommended that the clause be retained.

Clause 31(b)(i)

1831. Amend Paragraph 1, subparagraph (b) of Part II of the First Schedule to the VAT Act as follows:

"(b) the issue, transfer, receipt or any other dealing with money, including —

(i) money transfer services,

(ii) accepting over the counter payments of household bills, and

(iii) provision of digital financial services including payment processing, payment settlement, payment gateway, payment aggregation services, payment switching services, payment integration services, merchant acquiring services and any other payment facilitation and settlement services offered through technology platform but does not include the services of carriage of cash, restocking of cash machines, sorting or counting of money."

1832. The proposal to subject to VAT, financial services supplied over a software or platform by a payment service provider (PSP) is discriminatory and against the neutrality principal of taxation.

Committee Observation

The Committee noted the proposal by MAK & Partner but observed that specifically referring to financial services would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-

neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31(a)(ix)

1833. Amend the clause so that the supplies be retained as zero-rated as currently provided in the VAT Act. Retaining the zero-rate avoids the unintended consequence of exempting supplies, which denies suppliers input VAT recovery and inflates consumer prices. Maintaining the VAT at zero-rate for these supplies ensures affordability, accelerating adoption and reducing the financial barriers to climate-friendly mobility.

Committee Observation

The Committee appreciated the concern raised by MAK & Partners and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 28

1834. Delete the proposal and retain it as it is because the proposed amendment imposes a cash-flow burden on taxpayers, particularly where the debt proves to be irrecoverable. The three-year period is most likely to affect SMEs, which generally operate with constrained working capital and limited access to affordable financing.

Committee Observation

The Committee noted the proposed deletion by MAK & Partners but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges

on timelines. In view of this, the Committee did not support the proposal for deletion or amendment and recommended retention of the proposal.

Clause 31(a)(iv)

1835. Delete the proposal and retain the exemption from VAT on goods and services for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities. Maintaining the exemption aligns Kenya with international development strategies and makes the country more competitive as a regional tourism and convention hub. Removing this exemption would likely slow down capital-intensive tourism projects that are vital to regional development, cultural promotion, and economic diversification.

Committee Observation

The Committee appreciated the concern raised by MAK & Partners but observed that the proposed amendment rationalises VAT exemptions on selected goods and services in order to broaden the tax base and enhance efficiency and equity in the VAT system.

Clause 31(a)(vii)

1836. Delete the clause and retain the exemption from VAT on goods imported or purchased locally for direct and exclusive use in the construction of houses under an affordable housing scheme. Retaining the VAT exemption on affordable housing inputs is a concrete, non-cash contribution by the State towards realizing this right and addressing Kenya's housing deficit.

Committee Observation

The Committee accepted the proposed deletion of the clause by MAK & Partners and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 34,35

1837. Delete the clauses because the proposed amendment introduces significant legal and administrative uncertainty and effectively creates an enforcement gap in the administration and collection of excise duty on telephones. The absence of a statutory definition of activation" creates an ambiguity as to the precise event that crystallizes the excise duty liability. The proposal may create opportunities for tax leakage, avoidance, and informal market practices, particularly where devices are activated outside formal channels.

Committee Observation

The Committee acknowledged the concerns raised by MAK & Partners and concurred that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36(a)(xiii)- (xxxiii)

1838. Delete the proposal because the removal of excise duty exemptions could be seen as a non-tariff barrier that may strain trade relations with partner states and potentially violate regional trade agreements.

Committee Observation

The Committee noted MAK & Partners proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Income Tax Act, Cap 470

1839. Amend Paragraph 10 of the Third Schedule to read as follows:

"The rate of tax in respect of residential rental income shall be five percent of the gross rental receipts of a taxable resident person under section 6A."

Committee observation

The Committed noted that the proposal would materially erode the residential rental income tax base by raising the upper threshold and introducing a notional 50% deduction, thereby significantly reducing effective tax yield and undermining the policy intent of taxing gross rental receipts under a simplified presumptive regime.

1840. Amend Paragraph 1 of Head B of the Third schedule of the Income Tax Act by reviewing the PAYE Tax Bands to ensure the highest PAYE tax Band is 30% and a reduction of 5% on all tax bands. This revision will be in line with the Medium-Term Revenue Strategy (MTRS) and the national tax policy aspiration to expand individual tax bands & cushion income earners.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

Tax Procedures Act, Cap 469B

New Proposal

1841. Amend Section 47 (2) of the TPA:

"47(2) Where a person has overpaid tax and has no outstanding tax liability, the Commissioner shall, subject to subsection (3), pay a refund of the overpayment to the person within thirty days of verification of the refund claim.

47(2A) A person entitled to a refund under subsection (2) may, by written notice to the Commissioner, elect to have the refund applied as a credit against any current or future tax liability of that person in lieu of cash payment. The Commissioner shall apply such elected offset within fourteen days of receipt of the written election and shall issue written confirmation thereof.

47(2B) The Commissioner shall not substitute a cash refund payable under subsection (2) with a credit instrument, voucher, or offset without the prior written consent of the person entitled to the refund.

47(2C) Where the Commissioner fails to pay a verified refund within the period prescribed under subsection (2), interest shall accrue on the outstanding refund amount at the Central Bank Rate plus two percent per annum, calculated from the date the refund fell due to the date of actual payment, and such interest shall be paid together with the refund.

47(2D) The Commissioner shall not suspend or restrict the operation of the offset mechanism under subsection (2A) without the prior approval of the Cabinet Secretary, published by Gazette notice, and any such suspension shall not exceed ninety days without notification to the National Assembly"

1842. Introduction of the RAV system at least gave taxpayers a usable instrument. The suspension of RAVs removes even this relief. Taxpayers now face a situation in which their refund claim is acknowledged as valid, cash payment is deferred indefinitely, and the credit balance earns no interest and cannot be transferred or assigned.

Committee Observation
The Committee noted the proposal by MAK & Partners and proposed to undertake research and stakeholder consultation.

1843. Amend Section 54 of the TPA to read as follows:
"54. Appeals to Court of Appeal

A party to proceedings before the High Court who is dissatisfied with the decision of the High Court in relation to an appealable decision may, appeal the decision to the Court of Appeal in accordance with the provisions of the Appellate Jurisdiction Act, Cap 9 and the rules thereon."

1844. The proposed clean-up of the provision seeks to align it with the TPA, the Appellate Jurisdiction Act, Cap 9, and the Court of Appeal Rules, 2022.

Committee Observation
The Committee noted the proposal by MAK & Partners and undertook to consider it in future legislation.

1845. Amend Section 23A of the Tax Procedures Act and Regulation 10 of the Tax Procedures (Electronic Tax Invoice) Regulations to include payments made to a government body, state corporation, county government, or statutory authority in the performance of a statutory obligation or regulatory requirement as exempt from the requirement to issue or obtain an Electronic Tax Invoice and that the receipts from the agencies should be treated as proof of expense.

Committee Observation
The Committee noted the proposal by MAK & Partners and undertook to consider it in future legislation.

1846. Amend Section 23A of the Tax Procedures Act and Regulation 10 of the Tax Procedures (Electronic Tax Invoice) Regulations to include the purchase of naturally occurring raw materials, such as sand, murram, ballast, hardcore and clay from persons engaged in informal extraction shall be exempt from the eTIMS invoice requirement, provided the transaction is documented in accordance with the alternative documentation framework specified by the Commissioner.

Committee Observation
The Committee noted the proposal by MAK & Partners and undertook to consider it in future legislation.

The Tax Appeals Tribunal Act, Cap 469A

1847. Amend Section 3 of the Tax Appeals Tribunal Act ("TATA") by deleting the words "tax decision" and replacing it with the words "appealable decision" to read as follows:

"*3. Establishment of the Tribunal*

There is established a Tribunal to be known as the Tax Appeals Tribunal to hear appeals filed against any appealable decision made by the Commissioner."

1848. The proposed clean-up of the provision ensures clarity of the tax dispute resolution mechanism, and it promotes the exhaustion of available statutory mechanisms prior to instituting proceedings at the TAT.

Committee Observation

The Committee noted the proposal by MAK & Partner and proposed to conduct research and further consultation with stakeholders.

3.3.126 BASIGO KENYA LIMITED

Clause 16

1849. Amend the proposal to introduce a minimum 5-year operational period before Commissioner's discretion applies; to exempt e-mobility, SMEs, FDI startups and infrastructure-intensive enterprises for 15 years; and to require at least 2 consecutive profitable years before provisions apply. This is because capital-intensive investor-backed businesses retain earnings to scale infrastructure, service debt and meet investor covenants. The proposed forced application of deemed dividend provisions would undermine business growth, deter foreign direct investment and undermine Kenya's industrialization agenda.

Committee Observation

The Committee noted the proposed amendment by the BasiGo Kenya Limited and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 26

1850. Amend the proposal to add an EV-specific provision to the effect that EV service agreements under pay-per-use, pay-per-km, or conditional sale arrangements are deemed to satisfy licensing and registration requirements provided the agreement is in writing and registered with KRA as an EV service agreement. This is to accommodate EV service models and to shield fintech EV hire purchase operators,

who typically operate on thin margins, from the imposition of 16% VAT on finance charges arising on every mileage-based lease contract on thin margins.

Committee Observation

The Committee noted the proposed amendment by BasiGo, however it observed that the proposed amendment clarifies the VAT treatment of financial charges by limiting the exclusion to agreements regulated under the Hire Purchase Act, while expressly ensuring that financial charges are included in the taxable value where appropriate to prevent avoidance and ensure consistent VAT treatment of hire purchase arrangements. The Committee further noted that the amendment is intended to address existing ambiguity that has allowed taxpayers to structure sales agreements to resemble hire purchase arrangements and shift value into non-taxable finance charges, thereby reducing output VAT and creating VAT leakage through aggressive contractual structuring and inconsistent application of the law. In view of this, the Committee recommended that the clause be retained

Clauses 31(a)(ix)167 and 32(g)

1851. Delete the proposals and retain the supply of electric buses as zero-rated because zero-rating was introduced only in 2023 and has had insufficient time to realize the intended benefits.

Committee Observation

The Committee noted the proposed deletion by BasiGO and concurred that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

New Proposals

1852. Amend Part A of the Second Schedule to the VAT Act to introduce electric vans (HS 87.04) with gross vehicle weight (GVW) not exceeding 3,500kg as zero-rated, similar to the 0% excise duty rate applicable under the Excise Duty Act. This is to ensure clarity and prevent classification risks where customs officers could impose the standard rate of 16% VAT on e-vehicles.

Committee Observation

The Committee noted the proposal by BasiGO and undertook to consider it in future legislation.

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1853. Amend Part A of the Second Schedule to the VAT Act to zero-rate DC chargers (≤22kW), DC fast chargers and EV charging cables (HS 85.04 and 85.44) to avoid arbitrary tariff classification risks at customs.

Committee Observation

The Committee noted the proposal by BasiGO and undertook to consider it in future legislation.

1854. Amend Part A of the Second Schedule to the VAT Act to zero-rate electric motors (HS 85.01) and inverters (HS 85.04) imported or purchased locally as inputs for manufacture or assembly of EVs at a licensed facility. This is because local assemblers absorb 16% VAT on core drivetrain components whilst importers of equivalent finished Chinese EVs do not thus placing the Kenyan assembly industry at a structural disadvantage.

Committee Observation

The Committee noted the proposal by BasiGO and undertook to consider it in future legislation.

3.3.127 MR. **OMOLE OPINYA**

Clause 2(b)

1855. Amend the proposal because it expands the proposed definition of "management or professional fees" too broadly to include interchange fees and merchant service fees from card-based transactions. The breadth risks subjecting routine card transactions to withholding tax obligations not previously anticipated, increasing compliance burden and the cost of card acceptance for merchants.

Committee Observation

The Committee noted the proposed amendment by Mr. Opinya but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

1856. Amend the definition of "royalty" as it is unusually broad and could subject standard payment infrastructure fees to royalty WHT with cascading costs on all digital payments.

Committee Observation

The Committee acknowledged Mr. Opinya's concerns but observed that the proposed amendment seeks to clarify and modernize the definition of royalty to address evolving digital business models and ensure appropriate taxation of income derived from the use of digital platforms, and related technologies.

Clause 3

1857. Supports the proposal because it incentivises employers to provide end-of-service benefits, particularly for contract workers who lack pension coverage.

Clause 4

1858. Supports the proposal because it is as a reasonable measure that ensures non-residents benefitting from Kenyan real estate contribute to domestic revenue.

Clause 5

1859. Delete the proposal because workers who have held pension savings from before 1991 will lose the favourable treatment that was specifically created to recognise those long-standing contributions, retrospectively worsening their position on retirement.

Committee Observation

The Committee took note of the proposed deletion raised by Mr. Opinya and observed that the proposed amendment is a consequential clean-up intended to remove an obsolete cross-reference and ensure consistency and clarity in the Income Tax Act.

Clause 6

1860. Amend the proposal to extend the proposed 5-day window to thirty days because the former is operationally impractical for international shipping operators and their agents who require more time to process documentation and remit accurately.

Committee Observation

The Committee appreciated the concern raised by Mr. Opinya but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made

before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clauses 7 and 17(a)(iii) and (b)

1861. Supports the proposal because taxing gambling winnings is sound policy. Additionally, taxation on scrap metal would close a known gap used to launder proceeds from infrastructure theft.

Clause 15

1862. Supports the proposal because repealing electronic tax systems income exclusion tightens compliance and closes a gap that allowed income to fall outside the electronic filling net.

Clause 17(a)(i)

1863. Delete the proposal because removing the WHT exemption for specialized non-resident services would raise the cost of keeping Kenya Airways airworthy and legally compliant and ultimately transfer the cost to passengers and the taxpayer.

Committee Observation

The Committee noted the Mr. Opinya's concerns and agreed that the proposed repeal of the exemption on payments by the national carrier to non-resident service providers would increase business costs, raise compliance and operational expenses, and discourage access to specialised foreign services critical for maintaining international aviation standards. The Committee further noted the potential adverse impact on competitiveness and operational efficiency of the national carrier and therefore recommended deletion of the proposal.

Clause 18 and 19

1864. Delete the proposals shorter filing returns timelines deny taxpayers a realistic opportunity to comply accurately, violating Article 47 of the Constitution on the Right to Fair Administrative Action, and the resulting penalties infringe on Article 40 on the right to own and acquire property.

Committee Observation

The Committee took note of Mr. Opinya's concerns and was of the view that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee

recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22

1865. Supports the proposal because it is a housekeeping amendment with no adverse impact on taxpayers.

Clause 29(a)

1866. Delete the proposal because it would broaden compliance for informal traders including small traders, kiosks and mama *mboga*. Subjecting informal traders to an invoicing burden similar to formal businesses seems unfair.

Committee Observation

The Committee considered the concerns raised by Mr. Opinya and concurred that extending the eTIMS invoicing requirement to all persons would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clauses 31(a)(iv), (v), (vii), (viii) and 32(c), (d), (e), (f), (g), (h), (i)

1867. Delete the proposals because they would have the ultimate effect on increasing prices of the goods for consumers thereby locking lower-income Kenyans out of alternative energy options and essential goods.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Opinya but observed that the proposed amendment transfers selected Bioethanol vapour from VAT zero-rated status to VAT exempt status in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term Revenue Strategy. The Committee further noted that the measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clause 31(b)(i)

1868. Delete the proposal in its entirety because it would result in a direct increase in digital financial transaction costs thereby hitting mobile money users hardest.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Opinya, however, it observed that the proposal is a consequential clean-up aimed at aligning the tax base from customs value to excisable value and adjusting the specific rate in line with the revised definition of imports that excludes goods originating from EAC Partner States under the Rules of Origin. The Committee further noted that this alignment ensures consistency in the excise duty framework, eliminates potential inconsistencies in valuation, and promotes coherence in the application of tax provisions across the regional trade regime.

Clauses 34, 35, 36(a)(i) and 55

1869. Delete the proposals because they would significantly increase the cost of smartphones thereby locking lower-income Kenyans and youth out of digital access, mobile money, e-learning and access to government services such as e-Citizen.

Committee Observation

The Committee agreed with the concerns raised by Mr. Opinya and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 36(a)(ii)

1870. Supports the proposal because the differentiation between sweetened and unsweetened products is a reasonable public health measure that does not penalise the less processed option.

Clause 36(a)(xiv to xxxiii)

1871. Delete the proposals because they undermine regional trade integration, raise input costs for Kenyan businesses that source materials from within the EAC, and contradicts Kenya's commitments under the EAC Common Market Protocol.

Committee Observation

The Committee noted Mr. Opinya's proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 36(a)(xxxv)

1872. Supports the proposed 50% excise duty on antique/vintage and classic vehicles as a targeted luxury measure noting that the high value threshold limits the fiscal impact to a narrow segment of high-value collectors.

Clause 38 new 6C

1873. Amend the proposal to provide for strong safeguards, clear rules of data use and retention, independent oversight, Data Protection Commissioner involvement and a requirement for court orders before sensitive financial data is accessed internationally.

Committee Observation

The Committee acknowledged Mr. Opinya's concerns but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder concerns.

Clause 42

1874. Delete the proposal because it grants the Commissioner overly broad discretion in tax assessments and penalties, bypassing fair processes and in violation of Articles 47 and 50 of the Constitution on the right to fair administrative action and fair hearing.

Committee Observation

The Committee acknowledged Mr. Opinya's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

1875. Delete the proposal because it would allow KRA to freeze business funds while appeals are still active in court or at the Tax Appeals Tribunal, causing severe liquidity crises and effectively forcing payment before cases are heard and determined.

Committee Observation

The Committee considered the concerns raised by Mr. Opinya and agreed that permitting agency notices during the pendency of objections, appeals,

ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 50

1876. While the due process provision is welcome, amend the proposal because the proposed penalty quantum is disproportionate for taxpayers facing genuine technical or connectivity barriers to electronic system adoption.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Opinya but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, One Hundred thousand shillings for Corporates while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 57

1877. Supports the proposal noting that the ongoing scrutiny of road annuity contracts and their poor delivery record renders the reduction of this specific allocation a reasonable correction.

New Proposals

1878. Amend the Income Tax Act to reduce PAYE across all income bands by 5% because real incomes have declined by 10.7% to 12% over five years due to rising statutory deductions. A 5% cut would, therefore, release KES 28.1 billion into the economy annually, support over 36,000 new jobs, unlock KES 140 billion in formal lending capacity, and generate KES 27.1 to 31.5 billion in additional tax revenue through expanded economic activity. It would also align the top personal income tax rate of

35% with the corporate tax rate of 30%, in line with the principle that individuals should not be taxed higher than corporations.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

3.3.128 RETIREES BENEFITS AND CLAIMS WELFARE ASSOCIATION OF KENYA

General Submissions

1879. Supports the Bill and advocates for patriotism and prudence in public spending, whilst emphasizing the need for robust enforcement, stringent verification of compliance, and diligence in the conduct of civil service obligations.

New Proposals

1880. Amend Section 8(8) of the Income Tax Act to align with Section 96(1) of the Law of Succession Act to ensure that the inheriting spouse has family interest and the capacity to sustain the membership obligations by providing for a proviso as follows:

"Subject to the Dissolution of Marriage and not being subject to cruelty that deprives the other spouse the right to inheritance."

Committee Observation

The Committee noted the proposal by the Retirees Benefits and Claims Welfare Association of Kenya and undertook to consider it in future legislation.

1881. Amend Section 3(2)(i) of the Income Tax Act to provide that its enforcement shall not be subject to abuse within the meaning of Data Protection Act and that persons already subject to a mandatory or otherwise unavoidable tax regime shall not be subjected to double taxation under the same provision. This proposal would expand the tax collection base, net tax evaders, ease the burden currently borne by few Kenyans at the expense of many and ensure protection of pensions of retirees under the defined benefits scheme who earn from tax collected from Kenyans and ensure sustainability and improvements.

Committee Observation

The Committee noted the proposal by the Retirees Benefits and Claims Welfare Association of Kenya and undertook to consider it in future legislation.

3.3.129 DIASPORA VOICE (DV)/KEN G WAMWIRI (CHAIRMAN DV)

Clause 4

1882. Amend the proposal to allow non-resident citizens the statutory option to opt either into the flat gross regime or file under the standard corporate/individual net tax framework whilst providing that under the net tax framework, legitimate capital expenses be fully deductible. Alternatively, introduce a tier that distinguishes foreign corporate entities from individual Kenyan citizens living abroad, with Kenyan citizens holding valid national IDs/passports but living abroad being permitted to access the monthly rental income rate of 10%, provided their properties are registered and verified through the Electronic Rental Income Tax System (eRITS).

1883. This amendment would prevent taxation on operational losses where an investor would be forced to pay a KES 90,000 tax liability in a property generating an actual net loss of KES 15,000; prevent discrimination against diaspora citizens who would otherwise be penalized by an additional 20% purely on the basis of geographical location without regard to their Kenyan citizenship; and prevent capital flight noting that diaspora remittances constitute Kenya's largest source of foreign exchange earnings.

Committee Observation

The Committee acknowledged the concerns raised by Diaspora Voice but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

3.3.130 EKVATORSNUS LIMITED

Clause 36(a)(vii)

1884. Amend the proposal to introduce a separate excise category for non-combustible oral tobacco products commonly known as *Swedish-style snus* at KES 2,000 per kilogram noting that they are different from cigarettes and combustible tobacco. This would promote tax neutrality with oral nicotine products support local manufacturing

and agricultural value addition, encourage investment in domestic production, and align taxation with product characteristic and relative public health risks. The new provision could read as follows:

"Oral smokeless tobacco products, being moist tobacco pouches or portions intended for oral use and not intended for smoking, heating, or combustion – excise duty KES 2,000 per kilogram"

OR

"Oral smokeless tobacco products, consisting of processed tobacco intended for placement in the mouth and not intended for smoking, combustion, or heating — Excise duty: Kenya Shillings Two Thousand (KES 2000) per kilogram."

Committee Observation

The Committee acknowledged the concerns raised by Ekvatorsnus Limited but was of the view that the proposed increase in the excise duty rate on cigars, cheroots and cigarillos is intended to account for inflation, maintain the real value of the tax, and address the negative externalities associated with tobacco products.

3.3.131 REITS ASSOCIATION OF KENYA (RAK)

New Proposal

Stamp Duty Act, Section 96A (1)

1885. Amend by deleting sub paragraph (b) and substitute with the following new paragraph-

'that the effect thereof is to convey or transfer a beneficial interest in property from a person to a real estate investment trust that is listed on the NSE for valuable consideration.'

Committee Observation

The Committee noted the proposal by Reits Association Of Kenya and undertook to consider it in future legislation.

Stamp Duty, Section 96A (4)

1886. Delete the section since its deletion will boost the REITs market, and would further revive the market.

Committee Observation

The Committee acknowledged the concerns raised by Reits Association of Kenya but observed that exempting transfers of property to Real Estate Investment Trusts from stamp duty would reduce transaction costs but have revenue implications. While noting the role of REITs in capital

formation and housing development, the Committee did not recommend the proposal for exemption as contained in the Bill.

Income Tax Act, First Schedule

1887. Amend the schedule by inserting the transfer of real estate to REITs listed on the NSE from capital gains tax. The stakeholder submitted that property reorganization with a group of companies is deemed not to be subject to CGT but the same does not apply where the re-organization involves a REIT and as such this request would be stream-lining the substance of the intended laws and not limiting the same to the form of the entities involved.

Committee Observation

The Committee noted the proposal by Reits Association of Kenya and undertook to consider it in future legislation.

3.3.132 INTER-RELIGIOUS COUNCIL OF KENYA (IRCK)

Clause 18 (a)

1888. Delete the proposal as the reduction of the filing period from six months to four months places undue pressure on SMEs, many of which rely on external auditors and lack adequate accounting capacity.

Committee Observation

The Committee acknowledged IRCK's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 32 (a) and (h)

1889. Delete the proposal since the proposed shift from Zero-Rated to Exempt VAT status may increase hidden costs for manufacturers who cannot recover VAT on inputs, leading to higher consumer prices. The stakeholder submitted that this would negatively affect livestock farming, healthcare affordability, food security, and low-income households.

Committee Observation

The Committee acknowledged the concerns raised by IRCK and agreed that rationalising VAT exemptions on selected inputs or raw materials

locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.

The Committee also acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 36 (a) (i)

1890. Delete the proposal since smartphones are essential tools for employment, education, entrepreneurship, and access to government services. The stakeholder further stated that increasing taxes on phones would limit youth participation in the digital economy, worsen digital inequality, and undermine digital transformation efforts.

Committee Observation

The Committee agreed with the concerns raised by IRCK and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 42

1891. Amend the proposal to provide clarity on the measures incorporated to safeguards taxpayer rights, privacy, and fair dispute resolution mechanisms. The stakeholder submitted that aggressive enforcement measures may disproportionately affect small businesses, informal sector operators, and vulnerable citizens.

Committee Observation.

The Committee acknowledged IRCK's concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 49

1892. Delete the proposal since the proposed shift to calendar days undermines access to justice, particularly during public holidays and festive periods.

Committee Observation

The Committee considered the concerns raised by IRCK and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

3.3.133 ESTATE AGENTS NETWORKING GROUP (EANG)

Clause 2 (b)

1893. Delete the clause since it increases transaction costs for digital commerce and cashless payments, undermining financial inclusion and mobile money adoption.

Committee Observation

The Committee noted the concerns raised by Estate Agents Networking Group but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 4

1894. Accept the proposal since it creates a clear compliance path for non-resident property owners.

Clause 18 (b)

1895. Delete the new subsection 52 (1A) and subject the nil return fliers to the same four-month return window. According to the stakeholder, the one-month window creates unnecessary penalty exposure.

Committee Observation

The Committee acknowledged EANG's concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice.

Clause 20 (b)

1896. Accept the proposal since it encourages formalization of property investment structures through REITs.

Clause 21

1897. Accept the proposal as it supports the clarification of payment terms for industrial buildings.

Clause 29 (a)

1898. Delete the proposal concerning VAT Withholding Obligations since this amendment creates an unnecessary compliance burden for SMEs and small businesses, effectively undermining the KES 5 million VAT registration threshold.

Committee Observation

The Committee considered the concerns raised by EANG and agreed that extending the eTIMS invoicing requirement to all persons would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 31 (a) (vii)

1899. Delete the proposal to ensure consistency with MTP IV affordable housing targets.

Committee Observation

The Committee noted the concern raised by EANG and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 36 (a) (x) and (xii)

1900. Amend the clause by exempting imported ceramic tiles and sanitary fixtures used in residential housing projects certified by the Affordable Housing Board as delivering units with a sale value not exceeding KES 10 million per unit. The stakeholder submitted that the application of the 5% excise duty, as proposed, should apply only to materials used in units above the KES 10 million threshold. This targets the duty at high-value development while protecting affordable housing viability.

Committee Observation

The Committee noted the concerns of EANG and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 45

1901. Delete the clause since it is the stakeholder's view that issuing agency notices before a legal dispute is concluded is punitive, treats taxpayers as guilty before a conclusion is reached. The stakeholder further submits that it is imperative to preserve the right to fair administrative action and protect taxpayers during pending disputes and appeals.

Committee Observation

The Committee considered the concerns raised by EANG and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 50

1902. Amend the clause by inserting a new clause under the new proposed section 86(3) to read as follows:

(a) First breach — written notice and 30-day cure period;

(b) Breach not cured — 50% of tax due;

(c) Repeated breach within 12 months— 100% of tax due;

(d) Wilful evasion - 200% of tax due.

In all cases, the Commissioner shall distinguish between system failures beyond the taxpayer's deliberate non-compliance.

1903. The stakeholder submitted that inserting a graduated penalty protects compliant businesses from catastrophic penalties for technical errors

Committee Observation

The Committee acknowledged the concerns raised by EANG but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 53 (b)

1904. Delete the clause and and ring-fence a defined portion of that allocation for the KRA-EARB digital integration.

Committee Observation

The Committee acknowledged the concerns raised by EANG but noted the need to ensure that the Kenya Revenue Authority is adequately resourced to enhance revenue collection and strengthen tax administration. In view of this, the Committee agreed to delete the proposal.

Clause 56

1905. Accept the proposal as it supports REIT market development and encourages formal property investment vehicles.

NEW PROPOSAL

Income Tax Act, Section 16(1)(c)

1906. Amend the section to provide a defined category of informal real estate business expenses as allowable deductions, by creating a specific exception to the electronic tax invoice requirement not exceeding 10% of gross commission income, supported by statutory declarations in lieu of receipts. The stakeholder submitted that this proposal covers real estate practitioners who routinely incur legitimate business expenses that cannot be supported by formal eTIMS receipts.

Committee Observation

The Committee noted the proposal by EANG and undertook to consider it in future legislation.

Income Tax Act, Section 35(3AB)

1907. Amend the section to provide that a person required to deduct tax under this section shall remit the tax to Commissioner by the twentieth day of the month following the month in which the rental income was received. The stakeholder submitted that this aligns with the non-resident rental remittance cycle in the proposed new Section 6B (Clause 4) and consistent with standard monthly tax administration.

Committee Observation

The Committee noted the proposal by EANG. The Committee further noted that the proposal would require further research and stakeholder consultation.

Income Tax Act, Section 35(3AA)

1908. Amend by inserting the following new subsection to read as follows:

Provided that no person shall receive rental income on behalf of another for purposes of this section unless the person holds a valid license issued by the Estate Agents Registration Board.

1909. The stakeholder submitted that this new proposal eliminates the competitive advantage enjoyed by unregistered operators and establishes an enforcement mechanism linking rental income collection to a verifiable professional register.

Committee Observation

The Committee noted the proposal by EANG. The Committee further noted that the proposal would require further research and stakeholder consultation.

Income Tax Act, Third Schedule, Head B, Paragraph 3 (c) (i)

1910. Amend the section to reduce the non-resident rental income tax rate to between 10% and 15% of gross receipts. The stakeholder stated that a lower rate will ensure

consistency with Kenya's objective of attracting foreign direct investment in the property sector.

Committee Observation
The Committee noted the proposal by the EANG; however, it noted that the rates provided for are fair and sufficient.

Income Tax Act, Eighth Schedule

1911. Amend the schedule to provide an exemption to individuals practicing as estate agents from CGT. The stakeholder proposes that eligible estate agents should either be registered with the EARB or provide a statutory declaration from the property owner confirming their identity and role in the transaction. The stakeholder further argues that linking compliance by estate agents to access to key government services would discourage informal practice and promote regulatory compliance as the standard mode of operation within the real estate sector.

Committee Observation
The Committee noted the proposal by EANG. The Committee further noted that the proposal would require further research and stakeholder consultation.

Miscellaneous Fees and Levies Act

1912. Amend by inserting a provision in the Act mandating the National Treasury to fund and implement a technical integration between KRA's iTax and eRITS platforms, the Ministry of Lands' Ardhisasa portal, and the EARB registration database. The stakeholder submitted that the proposed integration would provide the data inputs necessary to make the prepopulated return system accurate and effective for the property sector.

Committee Observation
The Committee noted the proposal by EANG. The Committee further noted that the proposal would require further research and stakeholder consultation.

Proceeds of Crime and Anti-Money Laundering Act

1913. Amend the act to formally include practitioner bodies in the multi-agency AML/CFT Framework. The stakeholder stated that the formal inclusion would signal to FATF evaluators that Kenya's compliance framework engages private sector stakeholders in a structured manner.

Committee Observation

The Committee noted the proposal by the EANG, however, this is not a provision in the bill.

3.3.134 MR. **KENNETH MUNGAI**

Clause 31 (b) (i)

1914. Delete the proposal, as this will reverse the gains made in financial inclusion.

Committee Observation

The Committee acknowledged the concerns raised by Mr. Mungai but recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

3.3.135 **WEST KENYA SUGAR COMPANY LIMITED**

Clause 31 (a) (ix) – Paragraph 162

1915. Delete the new proposal under paragraph 162 as transporters will no longer recover input taxes and will therefore pass the additional costs to millers and farmers through higher transportation charges. Further, the stakeholder stated that the proposed amendment may increase production costs and reduce returns to key stakeholders within the sugar industry.

Committee Observation

The Committee acknowledged the concerns raised by West Kenya Sugar Company Limited and agreed that rationalising VAT exemptions on the transportation of sugar will increase transportation costs. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

3.3.136 CPA JAMES MWENDA MUGAMBI

Clause 15

1916. Delete the proposal to preserve proportionality and constrain arbitrary reconstruction of transactions.

Committee Observation

The Committee acknowledged the concerns raised by CPA Mwenda Mugambi but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for administrative consistency. Consequently, the proposed additional safeguards and amendments were not considered necessary.

Clause 16

1917. Amend the proposal by inserting a new sub-section to read:

"24(6) Provided that no direction shall be made under this subsection in respect of any portion of the income of a company which the company demonstrates, to the satisfaction of the Commissioner, has been or is committed to be applied, within twenty-four months after the end of the relevant accounting period, towards identified capital expenditure directly related to the business of the company, and in respect of which documentary evidence of such commitment is furnished to the Commissioner."

1918. According to the stakeholder, this new sub-section is intended to provide a Safe Harbour for genuine business reinvestment.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18 (b) and 19 (b)

1919. Amend the proposals to read as follows:

(1A) Where a taxpayer derived no taxable income and conducted no income-generating activity during a year of income, the person required to submit the tax return shall submit

the return within one month following the end of the year of income to which the return relates.

1920. The stakeholder submitted that this amendment will expressly provide that a 'nil amount of tax payable' refers to persons who derived no taxable income or conducted no income-generating activity during the year of income.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice.

Clause 22 (b) (i)

1921. Delete the proposal as it may facilitate hybrid mismatch arrangements arising from differences in the legal or tax treatment of entities and financial instruments across jurisdictions.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment removes the preferential 5 percent withholding tax rate on dividends paid to East African citizens to promote equity in the tax system, reduce revenue leakage, and align tax incentives with the National Tax Policy on the rationalization of tax expenditures.

Clause 29 (a)

1922. Insert a new paragraph to read as follows:

'An invoice issued by a person not registered for value added tax shall not, by reason only of the inclusion or reference to value added tax in such invoice, give rise to liability under the 'tax shown on an invoice' provisions unless the Commissioner has issued a determination that the person was required to be registered at the time of the supply.'

1923. The stakeholder stated that this paragraph will provide a safeguard and will ensure it is fully aligned with the current VAT rule that treats any amount shown as VAT on an invoice as tax due.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that extending the eTIMS invoicing requirement to all persons

would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 41

1924. Amend the proposal under the new section 18A (c) where it reads 'the Commissioner may determine the tax liability arising from the scheme" to read as follows:

"the Commissioner may, where it is just and reasonable to do so, make such adjustments as are necessary to counteract the tax benefit arising from the scheme."

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 41

1925. Amend by inserting a new sub-section to read:

"This section shall not apply to a transaction or arrangement undertaken primarily for bona fide commercial purposes and having substantial economic effect other than the obtaining of a tax benefit."

1926. According to the stakeholder, this new sub-section will provide economic substance limitation.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that

the rule applies prospectively to arrangements entered into after commencement.

Clause 41

1927. Amend by replacing the definition of 'scheme' under the new sub-section 18A (4) to read:

"scheme means an arrangement lacking substantial commercial purpose other than the obtaining of a tax benefit."

1928. The stakeholder submitted that this definition should be narrowed to exclude ordinary commercial transactions undertaken primarily for bona fide business purposes.

Committee Observation

The Committee noted the concern of the stakeholder but did not agree with the proposal to amend the definition.

Clause 41

1929. Amend by inserting a new sub-section to read:

"Any determination made under this section shall be accompanied by written reasons specifying the factual basis, legal grounds, and adjustments made by the Commissioner."

1930. According to the stakeholder, this new sub-section will provide a procedural safeguard.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 46

1931. Delete the proposal because it would expose Kenya to revenue leakage, fraudulent trading practices, and weakened customs administration.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposed repeal of Section 44A of the Tax Procedures Act is intended to align import procedures with international standards and

facilitate trade. The Committee further observed that the blanket requirement for Certificates of Origin imposes unnecessary compliance burdens, delays clearance, increases the cost of doing business, and conflicts with established customs practices under the East African Community framework.

3.3.137 THOGOTO RESIDENTS' ASSOCIATION

Clause 19 (a)

1932. Delete the proposal reducing tax filing timelines from six months to four months. The stakeholder submitted that businesses and SMEs may face increased compliance burden and financial reporting difficulties.

Committee Observation

The Committee acknowledged Thogoto Residents Association concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22(b)(ii)

1933. Delete the proposal seeking to charge 20% on winnings since excessive taxation may encourage illegal gambling platforms and reduce compliance among the youth.

Committee Observation

The Committee noted the concerns raised by Thogoto Residents Association but observed that the proposed amendment reintroduces a 20 per cent withholding tax on winnings from prize competitions and lotteries, thereby closing the gap created by the Finance Act, 2025, removing ambiguity in the tax treatment of such winnings, and promoting certainty and consistent application of the withholding tax framework while safeguarding government revenue.

Clause 31(a)(ix) – Paragraph 169

1934. Delete the proposal under the paragraph as it will affect low-income households; reduce incomes for small traders; and increase unemployment within the informal sector.

Committee Observation:
The Committee acknowledged the concerns raised by Thogoto Residents Association but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

Clause 31(b)(i)

1935. Delete the proposal as it is likely to increase transaction costs; discourage cashless payments; increase the cost of doing business; and affect low-income households that rely on mobile money.

Committee Observation
The Committee acknowledged the concerns raised by Thogoto Residents Association but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36 (a)(i)

1936. Delete the proposal seeking to introduce a 25% excise duty on mobile phones because it will increase the digital divide making smartphones unaffordable for youth and students as well as undermine digital literacy and innovation.

Committee Observation
The Committee agreed with the concerns raised by the Thogoto Residents Association and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee

therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 38

1937. Delete the proposal under the new section 6C (1) requiring virtual asset service providers to submit customer transaction data. The stakeholder submitted that without clear safeguard on data protection, the proposal raises concerns on privacy rights and data security.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder concerns.

Clause 42

1938. Delete the proposal seeking to expand the powers for KRA to access to personal financial records. The stakeholder stated that its implementation would violate the right to privacy under Article 31 of the Constitution and the data protection principles under the Data Protection Act, 2019.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

New Proposal

Income Tax Act, Section 12C

1939. Amend the section by reducing the turnover tax for SMEs so as to reduce business closures, unemployment and reduced local economic activity.

Committee Observation

The Committee noted that lowering the threshold would pull in very small businesses with minimal profit margins, increasing compliance costs relative to income and reducing ease of doing business, while also straining revenue administration capacity. The apparent disparity with Residential Rental Income Tax reflects structural differences in income streams and tax design, and does not justify lowering a well-established threshold intended to protect subsistence-level enterprises from taxation.

VAT Act, Section 5 (2)

1940. Amend the section to zero rate fuel, essential and basic goods from VAT to protect low-income households from punitive taxation; and maintain affordable access to healthcare, food, education and energy.

Committee Observation

The Committee noted the proposal by the stakeholder concerns and observed that the current VAT structure already balances revenue mobilisation with compliance considerations, and further relaxation would not be fiscally sustainable given prevailing expenditure pressures and debt servicing obligations. Additionally, the VAT Act already provides for exemptions and Zero-rating of essential goods.

Income Tax Act, Third Schedule-Head B

1941. Amend the PAYE tax bands for low and middle-income earners. According to the stakeholder, this proposal would increase disposable income and reduce economic hardship among formal sector workers.

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholder.

3.3.138 NAIROBI SOCIAL MOVEMENTS AND RESPECTIVE CIVIL SOCIETY ORGANIZATIONS

Clause 2 (b)

1942. Delete the proposal since it directly targets banks, card issuers, merchants, payment processors, and fintech companies, and the additional operational costs are

likely to be passed on to consumers through increased charges on digital financial transactions.

Committee Observation

The Committee noted the concerns raised by the stakeholder but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)(1)

1943. Accept the proposal since its closes existing tax loopholes by ensuring that payments for the use of proprietary digital payment platforms, networks, and processing systems are taxed consistently.

Clause 3 (b)

1944. Accept the proposal as it encourages long-term employment gratuity arrangements while limiting the use of gratuity schemes as tax avoidance mechanisms. It also discourages excessive gratuity contributions and restricts relief for short-term contracts.

Clause 4

1945. Delete the clause as it may discourage foreign investment, increase compliance and management costs, and potentially result in higher rental prices for tenants.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 5

1946. Delete the proposal since it may subject pre-1991 pension funds to the general pension withdrawal rules, thereby disadvantaging long-term contributors. The stakeholder submitted that the preferential treatment relating to pre-1991 pension contributions should be retained, and left to die a natural death.

Committee Observation

The Committee took note of the concerns raised by the stakeholder and observed that the proposed amendment is a consequential clean-up intended to remove an obsolete cross-reference and ensure consistency and clarity in the Income Tax Act.

Clause 6

1947. Accept the proposal as it enhances timely tax collection from non-resident shipping and air transport operators, and thus strengthens revenue enforcement by the KRA.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

Clause 7

1948. Accept the proposal because it broadens the Kenya's withholding tax regime by targeting sectors that are often difficult to monitor, thereby improving upfront tax collection and reducing revenue leakages.

Clause 9

1949. Accept the proposal since it aligns instalment tax with actual taxable income rather than minimum tax obligations, thereby reducing unfair tax burdens on low-profit taxpayers and simplifying compliance requirements.

Clause 10

1950. Accept the proposal because it promotes affordable home ownership by granting employees tax relief on interest paid on qualifying housing loans, thereby reducing borrowing costs and supporting the housing sector.

Clause 12

1951. Delete the proposal since it may overlap with existing international reporting frameworks and increase compliance obligations for businesses.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment cleans up Section 18D by correcting cross-references and clarifying Country-by-Country reporting obligations for multinational enterprise groups, thereby enhancing legal certainty and supporting consistent application of the reporting framework. The Committee further noted that the reporting threshold is aligned with internationally accepted OECD/G20 standards, and that lowering the threshold or requiring publication of reporting information could increase compliance burdens and raise taxpayer confidentiality concerns.

Clause 13

1952. Accept the proposal as it broadens Kenya's tax reporting framework, enhances transparency, reduces opportunities for profit shifting, and promotes fairness between multinational and local businesses.

Clause 14

1953. Accept the proposal because it aligns tax law with insurance regulatory frameworks, removes definitional inconsistencies, and establishes a more comprehensive and future-proof taxation framework for insurance businesses.

Clause 15

1954. Delete the proposal as the amendment creates a more predictable tax environment by reducing excessive administrative discretion previously exercised by KRA, while still maintaining anti-tax avoidance measures under the Tax Procedures Act.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for administrative consistency. Consequently, the proposed additional safeguards and amendments were not considered necessary.

Clause 16

1955. Accept the proposal as it introduces certainty and fairness by preventing companies from indefinitely retaining profits to avoid dividend taxation, while still allowing businesses to retain part of their profits for reinvestment and growth.

Clause 23 (b)

1956. Accept the proposal since it closes loopholes that previously allowed foreign investors to avoid Kenya's capital gains tax through offshore share transfers.

Clause 26

1957. Accept the proposal because it promotes consumer protection, encourages businesses to operate within formal regulatory frameworks, and reduces abuse of VAT exemptions.

Clause 27

1958. Accept the proposal since it strengthens VAT accountability and protects revenue collection, but effective implementation guidelines are necessary to prevent unfair burdens on businesses.

Clause 28

1959. Delete the proposal extending the period for claiming VAT refunds on bad debts from two years to three years. The stakeholder stated that extending the refund period may place unnecessary financial strain on businesses, particularly small and medium enterprises that depend on timely recovery of funds.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 29

1960. Accept the proposal as it protects businesses and consumers from wrongful VAT charges, reduces fraudulent VAT claims, and enhances efficient revenue collection.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that extending the eTIMS invoicing requirement to all persons would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee therefore recommended deletion of the proposal.

Clause 30

1961. Accept the proposal as it removes duplication where similar anti-tax avoidance mechanisms already exist under other tax laws, while maintaining KRA's enforcement powers under the broader tax framework.

Clause 31 (a) (vii)

1962. Delete the proposal removing VAT exemptions on construction materials for affordable housing since it will increase construction costs and undermine access to affordable housing under the Government's affordable housing agenda

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 32

1963. Delete the clause since it is likely to increase production costs, raise consumer prices, negatively affect farmers and manufacturers, and reduce affordability of essential goods and healthcare products.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally purchased or imported for the manufacture of pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 33

1964. Amend the proposal by clarifying that this definition be limited to luxury cars to avoid abuse by tax collector.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment introduces a clear excise duty and valuation framework for vintage and collector vehicles, thereby tapping into the potential revenue associated with this segment.

Clause 34

1965. Amend the proposal by providing clarity on whether the additional compliance and administrative costs may ultimately increase the retail cost of mobile phones and digital connectivity.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 35

1966. Amend the proposal by clarifying the framework to be used so as to provide safeguards to prevent delays and inefficiencies. The stakeholder stated that inefficient implementation may disrupt access to communication services and increase operational costs for businesses and consumers.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on

which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36 (a)

1967. Delete the proposals under the clause increasing excise exposure on products such as mobile phones, tobacco products, alcohol, juices, plastics, tiles, sanitary ware, and imported goods. The stakeholder submitted that its application might result in increase in prices of goods and services which may place an additional financial burden on consumers and negatively affect businesses through increased production and operational costs.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 36 (c)

1968. Amend the proposal seeking to expand of the definition of amounts deposited for betting and gambling purposes, including virtual assets and digital betting transactions.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and observed that the proposals in the Bill harmonise terms and definitions relating to betting and gaming activities under the Excise Duty Act.

3.3.140 KENYA ASSOCIATION OF WASTE RECYCLERS -

Value Added Tax Act

1969. Amend the second Schedule of the VAT Act to exempt recycling equipment, composting systems, waste collection machinery, material recovery systems, and pollution control equipment because the recycling and waste management equipment remain expensive despite existing legal provisions.

Committee Observation

The Committee noted the proposal by Kenya Association of Waste Recyclers and proposed to undertake research and stakeholder consultation.

1970. Amend the First Schedule of the VAT Act to include zero-rating for recycling inputs, circular economy machinery and waste recovery technologies because recycling enterprises face high costs of imported machinery and inputs.

Committee Observation
The Committee noted the proposal by Kenya Association of Waste Recyclers and proposed to undertake research and stakeholder consultation.

1971. Amend Section 57 (1) to introduce reduced corporate tax rates, tax holidays, and accelerated depreciation for licensed recycling and waste management enterprises because the waste sector lacks competitive fiscal incentives despite being a green industry.

Committee Observation
The Committee noted the proposal by Kenya Association of Waste Recyclers and proposed to undertake research and stakeholder consultation.

1972. Amend the Second Schedule to exempt sustainable waste management equipment from IDF and RDL because importation of recycling equipment remains costly.

Committee Observation
The Committee noted the proposal by Kenya Association of Waste Recyclers and proposed to undertake research and stakeholder consultation.

1973. Introduce VAT exemption on electricity used by licensed recyclers, preferential green industrial tariffs, and incentives for solar and waste-to-energy systems, with such exemptions and incentives being commensurate with those accorded to the manufacturing sector because recycling operations are energy-intensive, and electricity costs remain high.

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Sustainable Waste Management Act, 2022

1974. Amend to align fiscal provisions with Section 25 of the Sustainable Waste Management Act, 2022, because the Finance Bill creates an inconsistency with existing environmental legislation.

Committee Observation

The Committee noted the proposal by Kenya Association of Waste Recyclers and proposed to undertake research and stakeholder consultation.

Climate Change Act, 2016

1975. Amend section 3(2) to incorporate fiscal incentives that support recycling. Composting and waste diversion activities because there is a missed opportunity to support low-carbon development and methane reduction.

Committee Observation

The Committee noted the proposal by Kenya Association of Waste Recyclers and proposed to undertake research and stakeholder consultation.

3.3.141 CHANGAMWE ELITE 01 COMMUNITY-BASED ORGANISATION (CBO)

VAT Act Cap 476

1976. Amend the Act to zero-rate staple foods because the cost on products is transferred to consumers, and that it will affect both small businesses and consumers.

Committee Observation

The Committee noted the proposal by Changamwe Elite, CBO, and proposed to undertake research and stakeholder consultation.

Clause 4

1977. Delete the clause and retain 30% withholding tax for simplicity, because while it improves tax compliance, there is a risk of discouraging foreign investment in housing in Mombasa.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double

taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 31 (b)

1978. Amend the clause to exclude all mobile money transactions under Kshs. 1000 from VAT and keep digital payments affordable to protect financial inclusion. If M-Pesa platform fees rise, operators may pass costs to users, reversing gains in financial inclusion and pushing people back to cash.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 35

1979. Amend the clause to ensure there is tax simplification and no mandatory collection of personal data at activation. Charging tax at activation raises concerns about data privacy and security, and might increase the prices of phones.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Excise Duty Act

1980. Delete any clause that proposes amendments to increase the import declaration fee on steel products and reduce semi-finished steel imports. Local steel manufacturers must be protected to be competitive in the global market.

Committee Observation

The Committee observed that there is no such clause in the bill.

3.3.142 WAKILI WANGAI

Value Added Tax Act, Cap 476

1981. Amend to zero-rate or exempt condoms from value-added tax as essential preventive healthcare commodities. Condoms are classified as taxable medical devices rather than zero-rated or exempt essential medical supplies under the VAT Act, thereby attracting Value Added Tax of 16% and taxing such commodities with the escalating burden of treatment of related infections and diseases that arise from the absence or limited use of condoms is a fundamental failure of fiscal responsibility. The imposition of VAT has increased procurement costs and led to a decline in free condom distribution, which defeats the constitutional obligation under Article 21 (2) to progressively realize the right to health.

Committee Observation

The Committee noted the proposal by Wakili Wangai. However, it noted that these products are high commodity goods and will lead to revenue loss.

3.3.143 SUPREME COUNCIL OF KENYAN MUSLIMS (SUPKEM)

Income Tax Act, Excise Duty Act and VAT Act

1982. Delete all amendments and proposals under the Acts because the tax proposals destroy the economic fabric of the entire Kenyan population. A proper and more inclusive scrutiny of the expenditure estimates should be undertaken so that Kenyans have a meaningful say in how and on what the tax revenues are spent.

Committee Observation

The Committee acknowledged the concern raised by SUPKEMhowever it noted that this will have a negative impact on the fiscal framework.

3.3.144 THE KENYA HUMAN RIGHTS COMMISSION (KHRC)

Clause 2 (b)

1983. Delete the amendment, or in the alternative, exempt interchange fees and merchant service fees from withholding tax. While the amendment is intended to widen the tax base and increase government revenue from the growing digital payment sector, it will increase the cost of card transactions, increase the cost of goods and

services, reduce consumer spending, cause a setback to financial inclusion and the cashless economy and lead to higher costs of cross-border transactions.

Committee Observation

The Committee noted the concerns raised by the stakeholder but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

1984. Delete the proposal because it violates existing jurisprudence established by the High Court in the case of Seven Seas Technologies Limited v Commissioner of Domestic Taxes, whereby the High Court rejected the characterization of software distribution arrangements as royalty payments, and the inclusion of proprietary digital platforms and payment systems within the definition of royalties is overly broad and ambiguous, creating significant uncertainty within the financial and digital economy sectors. The proposed 20% withholding tax on payments relating to financial service providers such as Visa and M-Pesa is likely to increase the cost of digital payment and financial services.

Committee Observation

The Committee accepted KHRC's proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion. However, on the proposal to delete digital platforms the committee does not concur with the stakeholder.

Clause 4

1985. Amend to state the tax rate in the clause, amend the Third Schedule to include a "Head C" or equivalent for non-resident rental income tax and add a deemed agency or nominee provision where a resident collect rent for a non-resident. The tax rate is not specified in the clause, which creates a legislative lacuna, and no anti-avoidance provision prevents non-residents from routing rental income through residents to avoid the new tax.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The tax rate is specified in the Third Schedule of the Income Tax Act.

Clauses 7,17

1986. Amend the clauses to have a minimum threshold of Kshs 50,000 per transaction before WHT applies, to exempt subsistence waste pickers from the proposed WHT. Taxing small-scale scrap metal traders at WHT rates is inconsistent with the National Tax Policy exclusion of subsistence-level economic activity.

Committee Observation

The Committee acknowledged the concern raised by KHRC and noted that the rate is fair.

Clause 20

1987. Delete the provision on clause 20 (b) and introduce a preferential CGT rate based on the value of the property on all transfers of property to Property to Real Estate Investment Trust (REIT). There are concerns about revenue protection, tax equity, and avoidance risks within the tax framework of Kenya. The proposed amendment would create an almost complete tax-free structure for high-value property transactions conducted through REITs.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that while the proposed exemption supports capital market development through REITs, it lacks adequate safeguards and could be exposed to abuse through artificial restructurings, quick cash-outs, or related-party transactions. The Committee further noted that aligning the provision with international best practice requires clear anti-abuse conditions, including that transfers be undertaken for bona fide commercial purposes, consideration be in REIT units, transferred property be retained in the REIT for a minimum period, and that transferors do not retain controlling interests post-transfer. In view of these concerns, the Committee recommended amendment of the clause to incorporate the necessary safeguards while retaining the policy intent of the exemption as contained in the Bill.

Clause 24 (b) (i)

1988. Delete the proposal because reducing the corporate tax will reduce the revenue that is collected by KRA.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the clause reduces the corporate tax rate for non-resident petroleum contractors from 37.5 percent to 30 percent, aligning it with the rate applicable to other non-resident companies in line with the harmonisation intention of the Finance Act, 2023, while also clarifying that the 15 percent tax on repatriated income applies equally to this sector. The Committee further noted that the amendment promotes fairness, consistency, and equity in the taxation of the extractive sector by harmonising corporate tax treatment and ensuring uniform application of repatriated income tax. In view of this, the Committee recommended that the clause be retained.

Clause 25

1989. Delete the amendment and update the definition to match that in Section 3 of the Tax Procedures Act because it currently serves as the anti-avoidance provision for VAT.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment removes obsolete and redundant definitions, including references to provisions repealed under the Tax Procedures Act and terms that no longer appear elsewhere in the VAT Act, thereby aligning the statute with the current tax administration framework. The Committee further noted that the clean-up enhances legislative clarity, coherence, and consistency in the application of the law. In view of this, the Committee recommended that the clause be retained.

Clause 31 (b) (i)

1990. Amend the clause to delete B2B payment processing platforms with transaction volumes exceeding 500 million per month, and the tax rate should be preferential, less than 16% rate. This will enhance revenue collection by broadening the tax base and promoting greater equity within the tax system. A reduced preferential rate of VAT on the transactions is meant to prevent significant distortions.

Committee Observation

The Committee acknowledged the concern raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-

neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31,32

1991. Amend the clauses to develop a comprehensive framework on tax exemptions and tax incentives to ensure certainty and predictability in taxation, and also prevent the introduction or withdrawal of tax incentives for politically motivated reasons.

Committee Observation

The Committee noted the stakeholder's proposal and observed the importance of ensuring clarity, certainty, and predictability in the administration of tax exemptions and incentives. However, the Committee noted that the development of a comprehensive framework for tax incentives is a broader tax policy matter that extends beyond the scope of the proposed amendments.

Clause 33

1992. Amend the clause to establish more precise and measurable standards for valuing vehicles, including a clear framework for how such values are to be determined and confirmed. If the valuation method is unclear, it could lead to differing interpretations, inconsistent tax assessments and disputes over the applicable excise duty rate.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment introduces a clear excise duty and valuation framework for vintage and collector vehicles.

Clause 40

1993. Delete the proposal because providing a PIN exemption for non-residents investing through investment banks creates an uneven regulatory framework, a clear imbalance in reporting obligations and may create opportunities for capital flight and concealment of beneficial ownership.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but supported a targeted exemption from the PIN requirement for foreign investors opening CDSC accounts, noting that this facilitates capital market participation. The Committee further observed that extending the exemption to investment institutions would enhance efficiency in account opening processes while maintaining regulatory safeguards. In view of this,

the Committee supported a balanced approach and recommended amending the provision to include financial institutions within the exemption framework, while ensuring appropriate measures are retained to safeguard compliance and transparency.

Clause 45

1994. Delete the proposal because it raises constitutional and procedural fairness concerns as it weakens taxpayer protections under Articles 47 and 50 of the Constitution and further undermines confidence in the fairness and integrity of the tax dispute resolution system.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 49

1995. Delete the proposal because it is unfair and impractical by reducing effective working time available for taxpayers to prepare appeals, and increases applications for time extensions and litigations, which burdens the dispute resolution system.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 50

1996. Delete the proposal because the penalties remain excessively punitive and disproportionate, and might cause severe financial strain and discourage compliance.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 55

1997. Delete the proposal because granting tax exemptions on aircraft and aircraft parts may disproportionately benefit a limited group of taxpayers and lack a strong public welfare justification.

Committee Observation

The committee noted the concerns of the stakeholder and resolved to delete the proposal in the Bill

3.3.145 MITUMBA CONSORTIUM ASSOCIATION OF KENYA

Clause 31 (a) (ix) 169

1998. Supported the Proposal but proposed that a further 5% presumptive tax be imposed on imported second-hand clothes, which will be fair and predictable. The 5% will serve as the only and final tax, including VAT, on mitumba at the point of entry. The taxation framework will protect livelihoods while promoting sector stability, formalization and national economic growth.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

3.3.146 TERUMO BLOOD AND CELLS TECHNOLOGIES.

Clause 31 (a) (ix) 170

1999. Amend to provide for zero-rating, rather than exemption, subject to the same approval process. This would support accurate project costing, signal that Kenya's regulatory environment is supportive of private infrastructure investment and reinforce the Government's UHC agenda.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

New Proposal.

2000. Amend Part A of the Second Schedule of the VAT Act to zero- rate the supply or importation of human blood, animal blood, related products and equipment including apheresis machines under HS Code 9018.90, where used in preparing blood for therapeutic, prophylactic, or diagnostic purposes. This measure would directly advance the Government's Universal Health Coverage agenda.

Committee Observation

The Committee agreed with Terumo to zero-rate these products.

3.3.147 SHEIKH & COMPANY ADVOCATES

Clause 20

2001. Amend Clause 20 of the Bill, relating to the First Schedule to the Income Tax Act to expressly provide for the income tax treatment applicable to the Affordable Housing Fund and related income in order to facilitate effective administration and implementation of the affordable housing programme. The amendment provides clarity on the income tax treatment of the Affordable Housing Fund and ensures consistency in the application of the Income Tax Act.

Committee Observation

The Committee acknowledged concerns raised by Sheikh & Co. Advocates but observed that the proposed amendment clarifies Paragraph 53 of the First Schedule by explicitly exempting pension benefits paid to beneficiaries after the death of a pensioner. The Committee further noted that this provides legal certainty by expressly aligning the law with the existing non-taxable treatment of such benefits.

Clause 31(a)(vii)

2002. Amend Clause 31(a) of the Finance Bill, 2026 by deleting item (vii). This amendment restores the VAT exemption applicable to affordable housing projects. Retaining the exemption will lower the cost of housing development, promote investment in affordable housing, and support the Government's objective of increasing access to decent and affordable housing for Kenyans.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 40/ 31 (a) (vii)

2003. Amend Clause 40 by providing that:

"*Taxable supplies or services for the direct and exclusive use in the construction of houses under an affordable housing programme approved by the Cabinet Secretary upon the recommendation of the Cabinet Secretary responsible for matters relating to housing shall be exempt from Value Added Tax.*"

2004. This amendment ensures that services and contractor costs incurred in affordable housing projects are exempt from VAT. The proposal reduces construction costs borne by the Affordable Housing Board and enhances the financial viability of affordable housing projects

Committee Observation

The Committee noted that the developed houses have been accorded sufficient exemptions and the it recommended that the Affordable Housing Board ensures that the Affordable Housing Fund be self-sustaining

New Proposal

2005. Amend the Tax Procedures Act is by inserting the following new section immediately after Section 39—

Section 39A – Recovery of Unremitted or Unpaid Fees, Levies or Charges under Other Laws

"*Notwithstanding the provisions of any other written law, where the Commissioner is designated as the collector of a fee, levy or charge under any written law, the Commissioner may recover any unremitted or unpaid amount of such fee, levy or charge as a civil debt due to the Government as if the fee, levy or charge were an unremitted or unpaid tax under a tax law. Where the amount of the unremitted or unpaid fee, levy or charge does not exceed Kenya Shillings One Hundred Thousand (KShs.100,000), the debt may be recovered through summary recovery procedures.*"

2006.

The amendment strengthens enforcement mechanisms for the collection of statutory

fees and levies administered by the Kenya Revenue Authority, including collections due to the Affordable Housing Fund established under the Affordable Housing Act, thereby improving revenue collection and compliance.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

New proposal: Section 47 of the Tax Procedures Act (Tax Refunds)

2007. Amend Section 47 of the Tax Procedures Act by introducing provisions to allow the Commissioner to issue Tax Refund Certificates in respect of approved tax refunds, which certificates may be redeemed through financial institutions approved by the Cabinet Secretary responsible for the National Treasury. The amendment would accelerate settlement of outstanding tax refunds, improve business liquidity, reduce the backlog of refunds held by the Kenya Revenue Authority, and stimulate economic activity by enabling taxpayers to monetize approved refunds through participating financial institutions.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

New proposal: Tax Procedures Act on Tax Waivers for National Interest Projects

2008. Amend the Tax Procedures Act to empower the Cabinet Secretary responsible for the National Treasury to grant tax waivers for projects determined to be of national strategic interest, subject to appropriate accountability measures.

2009. The amendment should further require that:

> "*The Cabinet Secretary shall submit quarterly reports to the National Assembly detailing all tax waivers granted, the beneficiaries, the value of the waivers, and the public interest justification for each waiver.*"

2010. The amendment provides flexibility to support strategic national projects while ensuring transparency, accountability, and parliamentary oversight over the granting of tax waivers.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.148 MR. LAWRENCE BOSIRE

Regulation 7 of the Draft Income Tax (Residential Rental Income Tax) Regulations, 2026

2011. Delete the proposed amendment because it may be used to impose, endorse or designate the Electronic Residential Rental Income Tax System (eRITS) as the exclusive electronic system prescribed by the Commissioner for registration and administration of residential rental income tax. By prescribing registration within an electronic system without establishing capability standards, Regulation 7 may inadvertently institutionalize a declaration-based model while excluding more advanced intelligence-based approaches.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

2012. Amend Regulation 7 to require that any prescribed system meet national standards for georeferencing, property intelligence, ownership verification, compliance analytics, auditability, interoperability and transparency.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.149 SOFTWARE COALITION

Clause 2(c)

2013. Delete the proposal expanding the definition of *"royalty"* to include payments made for the distribution of software, where regular payments are made for the use of software through a distributor, because the amendment departs from internationally accepted principles distinguishing payments for the distribution of copyrighted software products from payments for the exploitation of copyright rights. Additionally, the proposal is inconsistent with the objectives of Kenya's National Artificial Intelligence Strategy, may increase the cost of software to Kenyan users through withholding tax gross-up arrangements, undermine adoption of digital technologies, create uncertainty by overturning established judicial precedent, and negatively affect inbound investment in Kenya's software, digital economy, and innovation sectors.

Committee Observation

The Committee accepted the stakeholder's proposal that the distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee, therefore, recommended its deletion.

3.3.150 KENYA ASSOCIATION OF TOUR OPERATORS (KATO)

Clause 31(b)(ii)

2014. Amend the proposed definitions relating to *"tour operator"* and *"in-house supplies"* to expressly provide that passenger transportation supplied by a tour operator on a seat-in-coach basis and charged per person as part of a tour package, whether operated using owned or hired vehicles, shall retain its character as transportation of passengers and shall not be treated as a separate taxable in-house supply for VAT purposes because passenger transport remains transportation of passengers in both law and substance irrespective of the ownership of the vehicle used to provide the service. The stakeholder noted that treating tour operator transport as a taxable in-house supply would create VAT inequity between tour operators and conventional transport providers, distort competition within the tourism sector, discourage investment in transport assets, and depart from internationally recognised VAT principles applied under the European Union and United Kingdom Tour Operators' Margin Schemes.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

3.3.151 KENYA RENEWABLE ENERGY ASSOCIATION (KEREA)

Clause 19

2015. Delete the proposal reducing the income tax return filing period from six months to four months after the end of the year of income because the amendment would significantly reduce the time available for taxpayers to complete audited financial statements, tax computations and annual income tax returns. The stakeholder further submitted that the proposal would impose additional compliance burdens on taxpayers and disproportionately affect large organisations with complex accounting structures, governance requirements and group reporting obligations.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31(a)(ix) (166)

2016. Delete the proposal to remove solar and lithium-ion batteries and bioethanol vapour (BEV) stoves from the list of zero-rated supplies because changing the VAT treatment from zero-rated to VAT-exempt would prevent manufacturers and assemblers from recovering input VAT incurred on raw materials, components, machinery, logistics and operational costs. The stakeholder submitted that the proposal would increase product prices, reduce the competitiveness of locally manufactured and assembled products, discourage investment in local clean energy, clean cooking and e-mobility industries, and increase the risk of business closures and job losses within the sector.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31(b)(i)

2017. Delete the clause and retain the current VAT exemption applicable to money transfer services, payment processing, settlement services, merchant acquiring, gateway and aggregation services supplied by payment service providers because the proposed taxation of these services would increase the cost of digital financial transactions and business operations. Additionally, this clause would increase transaction costs for consumers and businesses, raise the cost of off-grid solar and

clean cooking solutions that rely on digital payment platforms and PAYGo systems, and undermine financial inclusion and cashless transactions.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 45

2018. Delete the proposal removing restrictions on enforcement action during tax disputes because allowing recovery measures while objections, appeals or court proceedings remain pending may expose taxpayers to agency notices, recovery proceedings and disruption of business operations before disputes are conclusively determined. Retaining the current framework would support fair dispute resolution, safeguard access to justice and minimise unnecessary business disruption.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 48

2019. Amend the proposal on prepopulated tax returns to ensure that electronically generated returns remain subject to taxpayer review, verification, amendment or rejection before submission because system-generated returns may contain inaccuracies, omissions, duplications or mismatches arising from incomplete or incorrect third-party information. The stakeholder further proposed adoption of a hybrid approach combining self-assessment and prepopulated returns, supported by

clear reconciliation and dispute resolution mechanisms and phased implementation to safeguard taxpayer rights, data privacy and compliance accuracy.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

3.3.152 LEAN ENERGY SOLUTIONS LTD AND KENYA ASSOCIATION OF MANUFACTURERS (KAM)

New Provisions

Progressive Environmental Levy on Heavy Furnace Oil

2020. Introduce a progressive and time-bound environmental levy or carbon-reflective excise tax on Heavy Furnace Oil (HFO) calibrated to its carbon intensity and accompanied by a clear industrial transition roadmap. The stakeholder argued that HFO remains one of the most carbon-intensive industrial fuels, contributes significantly to foreign exchange outflows, exposes manufacturers to global oil price volatility and undermines Kenya's climate commitments. The levy should be ring-fenced to support clean energy transition programmes, green industrial financing and rural biomass supply chain development.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

Performance-Based Tax Incentives for Clean, Locally Sourced Energy

2021. Introduce performance-based tax incentives for enterprises adopting clean and locally sourced energy solutions, structured as accelerated capital allowances, investment deductions or corporate tax credits. Lean Energy Solutions Ltd and KAM noted that the incentives should be linked to verifiable outcomes including reductions in carbon emissions, foreign exchange savings through import substitution and certified job creation across biomass value chains. The stakeholders maintained that such incentives would accelerate industrial decarbonisation, support local manufacturing and enhance economic competitiveness.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

Mandatory Industrial Carbon Footprint Declaration Regime

2022. Introduce a mandatory carbon footprint declaration framework requiring industrial enterprises above a prescribed energy consumption threshold to annually disclose fuel consumption and associated carbon emissions using recognised greenhouse gas accounting standards. The stakeholders proposed that declarations be submitted through a digital portal administered by KRA or NEMA and be independently verified for large energy consumers. They argued that the framework would provide the evidentiary basis for administering environmental levies and tax incentives, strengthen climate accountability and facilitate access to green finance and carbon markets.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

Establishment of a Multi-Agency Technical Working Group on Industrial Energy Transition

2023. Establish a technical working group comprising the National Treasury, KRA, NEMA, the Ministry of Energy, KAM, Lean Energy Solutions and industry representatives to develop and operationalise the proposed fiscal framework. The stakeholders contended that coordinated implementation would facilitate industrial transition from HFO to cleaner domestic energy sources and ensure effective administration of the proposed reforms.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

3.3.153 YOUTH FOR SUSTAINABLE DEVELOPMENT (YSD) – MAKUENI CHAPTER CBO

Clause 31(b)

2024. Delete the proposal as it would likely increase transaction costs across the economy and ultimately be passed on to consumers and small businesses. If the proposal is retained in the Bill, the Committee should consider a lower transitional VAT rate and publish a comprehensive impact assessment of the same.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(i)

2025. Amend the proposal to exempt entre-level smartphones and educational devices from the proposed 25% excise duty on telephones for cellular networks. The stakeholder cited that mobile phones are not a luxury but an essential tool for accessing markets, mobile banking, accessing government services, online learning, telemedicine among others.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

New Proposals – Overall

2026. The Committee should strengthen tax incentives supporting:

2027. Agro-processing equipment; Cold-chain infrastructure; Export certification systems; Fruit packaging facilities; Irrigation technologies; and Solar-powered agricultural equipment. The objective should be to reduce losses, increase farmer incomes and expand value addition rather than merely taxing agricultural production.

2028. The stakeholder submitted that mangoes remain among the Makueni County's most important agricultural commodities but despite this potential, farmers continue to face post-harvest losses, price fluctuations, market concentration among intermediaries, limited processing capacity, export barriers among others.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

2029. The National Government should support export certification and quality standards; Trade promotion for Makueni products; Linkages with supermarkets, institutional buyers and export markets; Logistics and cold-chain infrastructure; and Digital market information systems. Particular emphasis should be placed on improving export readiness for mango products and pulse crops.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

2030. The National Assembly should consider introducing simplified tax treatment for emerging creatives and digital entrepreneurs below specified income thresholds. Many creators in counties such as Makueni earn irregular and modest incomes that fluctuate significantly from month to month. Complex tax obligations may discourage formalization and compliance.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

2031. The National Assembly should direct the National Treasury, Kenya Revenue Authority and relevant regulatory agencies to undertake a comprehensive review of the taxation of digital creative income. The review should specifically examine:

i. Potential instances of double taxation.
ii. Tax treatment of income earned through foreign platforms;
iii. Tax treatment of digital exports;
iv. Tax treatment of royalties and creator earnings;
v. International best practices for taxation of digital creators;
vi. Simplified compliance mechanisms for small-scale creators.

2032. The objective should be to establish a transparent and harmonized taxation framework that protects government revenue while supporting growth of the sector.

2033. The stakeholder submitted that some creators are paid net pay by foreign companies but are also required to pay tax without consideration being made to the tax already paid.

Committee Observation

The Committee noted the proposal by Lean energy and proposed to undertake research and stakeholder consultation.

2034. The stakeholder submitted that any taxation measures affecting creatives should be aligned with broader objectives of the Creative Economy Bill, 2026. They cited that

tax policy should not be developed in isolation from sector development policy. The Committee should therefore ensure that fiscal measures affecting creatives support talent development, innovation, intellectual property protection, digital exports, employment creation, and international competitiveness.

Committee Observation
The Committee nod YSD'ss proposal.

2035. The YSD called for a comprehensive National public participation on The Creative Economy sector with a focus being made on taxation, revenue sharing, platform accountability, monetization challenges, access to financing and skills development. The engagement would ensure that future legislation reflects the realities of creatives operating both within and outside major urban centers.

Committee Observation
The Committee agreed with the stakeholder, on the need to have consultations with stakeholder.

2036. The stakeholder submitted that citizens are more willing to support taxation when they can clearly see public resources translated into Water projects, Roads, Irrigation schemes, Markets, Schools, Health facilities, Agricultural support systems. The stakeholder cited the public discussions around the Finance Bill frequently reflect concerns about expenditure efficiency, accountability and value for money. The stakeholder called on the National Assembly to strengthen expenditure oversight mechanisms by requiring:

a) Annual expenditure efficiency reporting;

b) Public disclosure of major development project performance;

c) Enhanced value-for-money audits;

d) Strengthened anti-corruption safeguards.

Committee Observation
The Committee agreed with the stakeholder.

2037. The YSD proposed that all tax related Acts be amended to ensure a 0% tax rate is applied to youth owned businesses. They submitted that youth owned businesses are trying to break even and face challenges where complex or high taxes are demanded.

Committee Observation
The Committee noted the stakeholder's concern however, it observed that this will have a negative impact on te fiscal framework.

3.3.154 CARGOLUX AIRLINES INTERNATIONAL S.A.

Clause 6

2038. Delete the proposal and amend the Clause to provide that the remittance deadline under Section 9 of the ITA shall be on or before the 20th day of the following month in which the payment is received or income earned. Cargolux submitted that this provides a more workable compliance framework.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposed amendment simplifies tax administration by restoring the responsibility for accounting for the tax to resident shipping agents and addressing implementation challenges under the current framework. The Committee further observed that payment for goods is ordinarily made before the ship sails, and therefore the proposed payment date does not inconvenience shipping lines, and the proposal was not supported.

3.3.155 YASIN AND COMPANY ADVOCATES (YSA)

Clause 49

2039. Delete the proposal as counting weekends and public holidays against these deadlines serves no legitimate administrative purpose, it simply creates pressure that is artificial, unnecessary, and disproportionately felt by smaller taxpayers with fewer resources.

2040. Further, the stakeholder proposed that rather than reinstating a calendar-day count or returning to the provision before the Finance Bill,2024, amend sections of both the Tax Procedures Act and the Tax Appeals Tribunal Act to define "***day***" as a working day, excluding Saturdays, Sundays, and public holidays, applicable uniformly to all parties at every stage of the dispute resolution process.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that including weekends and public holidays in the computation of time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

New Proposal - Miscellaneous Fees and Levies Act
Third Schedule

2041. Amend the Third Schedule to exempt Steel billets classified under HS Code 7207 from the Export and Investment Promotion Levy. The stakeholder submitted that the Bill should be amended to empower the Cabinet Secretary for the National Treasury to designate strategic raw materials as exempt where they directly support government priority Programmes and local value addition.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

2042. Amend the Third Schedule to exempt cement clinker of HS Code 2523.10 from Export and Investment Promotion Levy or exempt clinker for a defined development period of 3-5 years. YSA submitted that clinker market in Kenya is still at a formative stage and the temporary policy holiday allows investors to develop extraction, processing, and logistics capacity before fiscal extraction is introduced.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

New Proposal – Excise Duty Act

First Schedule

2043. Amend the First Schedule to explicitly exclude clinker from excise duty classification and treatment. The stakeholder submitted that excise is conceptually designed for final consumption goods, not production inputs. Applying it to clinker inflates manufacturing costs, raises cement prices, and discourages local processing.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.156 BAJETI HUB

2044. They noted that the Finance bill has attracted various interpretations, particularly concerning its amendments. They submitted that the government needs to publish a citizen friendly version alongside the finance Bill. This will help reduce misinformation and prevent misinterpretations.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Clause 19

2045. Delete the proposal and retain the six-month filing period or implement a transitional five-month period for 2027 to allow businesses to adjust their financial close processes and audit.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31 (a)(ix) 158, 164, 165, 166 & 167

2046. Delete the proposal because this threatens to make the cost of purchase higher and in turn fare prices for wananchi a bit higher. This weakens the incentive of green mobility despite the rigorous efforts by the government by the same

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of electric bicycles. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for electric bicycles as 8712.00.00. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (a)(ix) 160 &161

2047. Delete the proposal and maintain the zero-rate status. This will help protect most Kenyans engaged in livestock farming while also cushioning poorer households from increased health-related costs associated with pharmaceutical products.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

New Proposal

2048. Restore weekends and holidays as part of the working days for computation of time for objections and appeals. A 30-calendar day window during the December holiday season effectively leaves a business with fewer than 18 actual working days to find a lawyer and file an appeal.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Clause 36 (a) (i)

2049. Delete the proposal and raise the low-income smartphone tax exemption threshold from KES 8,000 to KES 20,000and shift the proposed 25% cellular excise duty from the point of activation to the point of import to guarantee tax compliance.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 38

2050. Amend the proposal by introducing a de minimis threshold for virtual asset reporting, aligned with OECD frameworks, to protect the privacy of small-scale users and prevent the KRA from being overwhelmed by many small transactions that could clog and slow down the process. They recommended a Ksh 50,000 penalty as penalty of Ksh 1,000,000 creates a massive barrier for small-scale fintech innovators. Additionally, implement a mandatory 30-day Reconciliation Window borrowing from the United States (IRS "CP2000 Process) before any such assessment is finalized.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that a legal framework for crypto-assets is necessary to align with OECD standards and ensure effective taxation of a sector with significant transaction volumes. Therefore, the penalties provided in the Bill are commensurate.

Clause 2 (c)

2051. Limit royalties to passive intellectual property and exclude active digital payment processing fees. Reclassifying card network and interchange fees as royalties and imposing VAT on digital platform financial services (VAT Act Para 1) will increase the cost of all cashless transactions.

Committee Observation

The Committee noted the concerns raised by the stakeholder but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(e)

2052. Harmonize definitions across all statutes specifically aligning the winnings definition in the Income Tax Act (which correctly excludes the stake) with the amount deposited in the Excise Duty Act to prevent legal ambiguity and ensure a fair tax base that avoids winning a loss scenario.

Committee Observation

The Committee noted the concerns raised by the stakeholder. However, it observed that the proposed amendment clarifies the tax treatment of winnings from prize competitions and lotteries, thereby promoting certainty and consistent application of the withholding tax framework. This is to close a gap in the tax framework created by the Finance Act, 2025, which inadvertently removed the legal basis for taxing winnings from prize competitions outside the betting and gaming sector, and resulted in revenue losses.

New Proposal

2053. Additionally, they recommended a dual-source funding framework. First, 10% of the WHT on winnings should be redirected to the kitty; because WHT is deducted directly from the player, this creates a self-sustaining funding mechanism without touching the operator-level revenue earmarked for UHC. Second, to maintain the principle of industry accountability, 5% of the betting excise duty reallocated from within the existing UHC healthcare pool should co-finance the fund. This balanced formula protects general healthcare budgets while ensuring both the consumer and the industry directly finance the mitigation of the social harms they generate.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

2054. To seal revenue leakages from offshore platforms, we recommend that the government introduces a White-List system mandating that payment service providers only process transfers to entities with a KRA Certificate of Tax Compliance. Finally, to protect the common wananchi from predatory practices where more is staked but less is won, the Gambling Control Authority must be empowered to conduct quarterly audits of odds and payout ratios, ensuring that betters are not exploited through tighter odds that artificially drive-up excise revenue at the expense of individual returns.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

Clause 22(b) (x) and 31 (a) (ix)159

2055. Amend to have 1.5% WHT as a refundable credit for e-TIMS-registered dealers to reward formalization and restore Zero-Rated status for formal recyclers to allow for the recovery of input costs. The exempt status removes the ability for recyclers to recover input VAT on electricity and machinery, creating hidden costs that are likely to raise prices for the construction industry.

2056. Additionally, establish a de-minimis threshold for small-scale collectors to prevent compliance hurdles from marginalizing the youth who rely on this trade.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but was of the view that the proposed amendment provides a clear legal basis for taxing income from the sale of scrap metal, enhances traceability of transactions, addresses compliance challenges in the informal sector, and promotes fairness and consistency in the tax system

Clause 28

2057. Delete the proposal because it represents a regressive policy reversal that places an undue liquidity strain on businesses. By undoing a relief measure introduced just a year ago in the Finance Act, 2025, the Bill forces suppliers-who have already remitted VAT to the KRA for goods or services never paid for-to wait an extra year to recover their own funds.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity.

The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 47(1)

2058. Delete because this forces importers to pay cash at the border even when the KRA already holds their funds in the form of tax credits, creating an artificial liquidity strain and increasing the cost of doing business. This restriction is particularly punitive as it traps business capital in lengthy, audit-heavy refund processes while simultaneously demanding immediate cash outflows for new imports, effectively forcing businesses to lend to the state interest-free while suffering operational cash shortages.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that restricting the offset of tax overpayments against VAT on imports would adversely affect cash flow, increase working capital pressures, and force taxpayers to rely on lengthy refund processes despite holding verified tax credits. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 53

2059. National Treasury to provide a formal legislative audit trail to reconcile this inconsistency and clarify whether the revenue enforcement share was introduced by a prior un-gazetted amendment or represents a drafting error. They proposed deletion of the ten percent allocation if the audit confirms existence for revenue enforcement initiatives, as halving this share-leaving only a reduced ten percent for international obligations.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted the need to ensure that the Kenya Revenue Authority is adequately resourced to enhance revenue collection and strengthen tax administration. In view of this, the Committee agreed to delete the proposal.

3.3.157 LAVINGTON FIVE ROADS ASSOCIATION (LFRA)

Clause 34 and 36 (a) (i)

2060. Delete the proposal because this will price smartphones out of reach for ordinary Kenyans. We request that this proposal be deleted to safeguard digital inclusion.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 31 (b) (i)

2061. Delete the proposal because his will raise transaction fees for millions of Kenyans.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-

neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31 (a) (ix) 169

2062. Delete the presumptive tax model on imported second-hand clothing. This threatens a vital sector employing millions.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

New Clause

2063. Delete the proposal to increase residential rental income tax from 7.5% to 10% and the removal of affordable housing incentives. They proposed retention of current tax reliefs to prevent an unwarranted increase in rent for Kenyan residents.

Committee Observation

The Committee noted the proposal by the stakeholder. However, the Committee observed that the matter does not form part of the Finance Bill, 2026

Clause 49

2064. Delete the proposal because to shift to calendar-day computations for appeals, the expansion of KRA's unilateral assessment powers, and the removal of safeguards protecting taxpayers during pending appeals. They stated that fair, working-day timelines and due process protections be preserved.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that including weekends and public holidays in the computation of

time for objections and appeals would materially shorten the effective period available to taxpayers, thereby increasing the risk of missed filings and procedural non-compliance. The Committee further noted that the change could undermine procedural fairness and limit taxpayers' ability to adequately prepare and lodge appeals, particularly in complex tax matters. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

New Proposal – Freehold Land

2065. The stakeholder noted the widespread public apprehension regarding rumors of freehold land taxation. While they acknowledged Parliament's preliminary communication that the Bill contains no provisions converting freehold land, Metro Alliance requests an express, formal parliamentary declaration on record. We firmly oppose any current or future, direct or indirect fiscal measures that seek to burden freehold property owners without full constitutional safeguards.

Committee Observation

The Committee noted the proposal by the stakeholder.

3.3.158 YOUTH PLUS AFRICA

Clause 2 (c)

2066. Delete the proposal as the costs are likely to be driven to the consumers and with a Digital Platforms important for both individuals and small businesses it is likely to negatively affect them.

Committee Observation

The Committee noted the concern of Youth Plus Africa but did not agree with the proposal to delete the entire clause.

Clause 16

2067. Delete the proposal as it could affect the opportunities of private companies to reinvest in their organization. Discretion of how companies use their profits should be left to the relevant companies,

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered

it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 18

2068. Delete the proposal because filing of multiple returns would take place in the fourth month. This would include VAT filings, Installment tax obligations, balance of tax payments and income returns. This would be a burden for taxpayers.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Proposal not in the Bill

2069. Delete the proposal increasing WHT rate from 7.5% to 10% with respect to rental income earned by residential persons as it could increase rental rates which are already high in the country and have a direct effect on Kenyans.

Committee Observation

The Committee noted the proposal by the stakeholder. However, the Committee observed that the matter does not form part of the Finance Bill, 2026

Clause 28

2070. Delete the proposal as it will affect suppliers' cashflow.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that reducing the threshold for claiming relief on bad debts to 90 days, or shortening it to 12 months or reverting to two years, does not reflect commercial credit realities and debt recovery processes, and would risk premature claims, revenue leakage, and increased administrative complexity. The Committee further noted that alignment with the Excise Duty Act through a three-year threshold provides consistency across tax laws, strengthens predictability, and ensures that claims are only made after exhaustive recovery efforts. In addition, the Committee noted that

over the years it has been retaining two years, but KRA has faced challenges on timelines. In view of this, the Committee did not support the proposals for deletion or amendment and recommended retention of the proposal.

Clause 34 and 35

2071. Delete the proposed amendments as they may introduce compliance complexities, particularly in tracking activation events and determining the taxable person responsible for remittance.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

3.3.159 THE RETAIL TRADE ASSOCIATION OF KENYA (RETRAK)

Clause 2 (b)

2072. Delete the proposal in its entirety because retailers rely heavily on digital payments including card payments, mobile money, payment gateways and integrated checkout systems. The proposed taxes will increase the cost of digital transactions, raise merchant service costs for retailers, increase the cost of financial services passed to consumers, discourage adoption of digital payments, and hurt MSMEs transitioning into formal digital commerce.

Committee Observation

The Committee noted the concerns raised by the stakeholder but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems

rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

WHT on Digital Marketplace Transactions

2073. Amend the provision to expressly exclude goods and movable property from the scope of withholding tax. Most retailers and MSMEs use e-commerce platforms as an additional distribution and sales channel. Subjecting goods sold through digital marketplaces to withholding tax would discourage formal e-commerce participation, push traders back to informal and untraceable channels, hurt MSME digitization, create unfair competition between online and offline retailers, and increase compliance and cash flow pressures on retailers.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

Clause 16

2074. Delete the proposal because retail businesses retain earnings to support stock purchases, expansion of branches, technology investments, working capital, debt servicing, and supply chain resilience. The proposal risks weakening reinvestment and growth, particularly at a time when retailers are facing tight margins and subdued consumer spending.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clause 19

2075. Delete the proposal and retain the current six-month filing period. Retail businesses operate highly complex environments involving multiple branches and outlets, high transaction volumes, inventory reconciliations, supplier reconciliations, audited financial statements, board approvals, and regulatory reporting. Reducing the filing timeline may force businesses to submit provisional or inaccurate returns, increasing amendments, disputes, penalties and compliance costs.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 22(b) (x)

2076. Exclude circular economy and take back programs from the scope of tax. Retail and manufacturing sectors are increasingly investing in sustainability and circular economy initiatives including packaging recovery, recycling partnerships, battery take-back programs, and waste reduction Initiatives. Applying withholding tax to such recovery systems may discourage participation and undermine Kenya's Extended Producer Responsibility (EPR) goals.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but was of the view that the proposed amendment provides a clear legal basis for taxing income from the sale of scrap metal, enhances traceability of transactions, addresses compliance challenges in the informal sector, and promotes fairness and consistency in the tax system

Clause 31 (a)

2077. Simply implementation guidelines and transitional relief measures. Retailers deal with thousands of SKUs and rapidly changing inventory categories. VAT adjustment requirements on unsold stock may increase compliance costs, complicate inventory management, create disputes around valuation and timing, and increase the cost of doing business.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that removing the VAT exemption on aircraft, helicopters, and related equipment would increase the cost of aviation services and related operations, thereby discouraging investment in the sector and potentially affecting safety, emergency, and commercial aviation services.The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 34

2078. Delete the proposal because the proposal may increase retail prices of smartphones, reduce digital access and financial inclusion, hurt retail electronics sales, and increase smuggling and informal imports.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Excise duty on Consumer goods and packaging inputs

2079. Delete the proposal because these taxes will increase the cost of packaging, FMCG products, food products, household goods, and retail shelf prices. Retailers are already facing rising logistics, energy, rent and compliance costs. Additional taxes on packaging and manufacturing inputs will ultimately be transferred to consumers through higher prices.

Committee Observation

The Committee noted the stakeholder's concern. However, there should be a balance between revenue mobilization and protecting manufacturers

Need for a stable and predictable tax policy

2080. The stakeholder noted that frequent tax changes and overlapping compliance requirements create uncertainty and reduce business confidence. They stated that policy stability is needed to support investment confidence, encourage formalization, promote digitalization, protect consumers from inflationary effects, avoid excessive compliance burdens and ensure structured consultation and phased transitions

Committee Observation

The Committee noted the stakeholders' concerns.

3.3.160 CPA DENNIS WAKABA

Clause 21

2081. Amend the proposal on the Second Schedule 1(1)(a) of the Income Tax Act to give investors the granted tax incentive of investment deduction a longer lifeline, that is, a 20% equal deduction for industrial building deductions. This will give the investor an extended period to claim the investment deduction within the timeframe that this category of investor is able to statistically claim their original investment, while still retaining the five-year loss carry forward limit.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposal provides necessary clarity on the investment allowance for industrial buildings by specifying that the 10 percent allowance is claimable annually in equal instalments, thereby removing ambiguity, ensuring consistent application of the law, and enhancing predictability for taxpayers and administrators. The Committee therefore noted that the clause is a clean-up amendment intended to correct and clarify the provision, and recommended it for retention as contained in the proposal.

3.3.161 SODAS FOUNDATION

Clause 35, 36 (a) (i)

2082. Delete the proposals to charge excise duty upon activation and at 25% because smartphones have been crucial for daily activities, and taxing them more may reduce digital inclusion and contradict the Digital Economy Blueprint, while disadvantaging affordability for low-income households.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 2 (c)

2083. Delete the proposal because it removes VAT exemption on payment services, reclassifying them as royalties, which are subject to withholding tax. The costs, therefore, will be transferred to consumers who rely on digital payments.

Committee Observation

The Committee noted the proposal by Sodas Foundation and the concerns raised on the transfer of costs to consumers. However the committee notes that inclusion of payment services and digital platforms seeks to expand the tax base and enhance tax certainty.

Clause 41

2084. Delete the proposal because data-driven enforcement should be paired with trust-building measures, and without simplifying compliance, it will increase litigation and evasion.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 4

2085. Delete the proposal because the treatment of non-resident rental income at 30% risks cost pass-through to tenants.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholders but noted that the amendment is intended to strengthen compliance and administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework. The Bill seeks to reduce the tax rate to 30 % from 37.5%.

3.3.162 NON-COMMUNICABLE DISEASES ALLIANCE KENYA

Clause 31 (a) (vi, vii)

2086. Amend the clause to adopt a 20% increase in excise duty on all other tobacco product categories, including cigarettes (plain and with filters, oral nicotine pouches,

liquid nicotine for E-cigarettes and E-cigarettes and delivery devices, because they are the most used and imposing a 20% increase would yield material gains for both the economy and public health. The automatic annual inflation adjustment will be reinstated because, without this mechanism, any nominal gains made in 2026 will be eroded by economic growth and inflation by 2027, rendering the tax ineffective as a public health measure.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and was of the view that the proposed increase in the excise duty rate on cigars, cheroots and cigarillos is intended to account for inflation, maintain the real value of the tax, and address the negative externalities associated with tobacco products.

3.3.163 THE NETWORK FOR ADOLESCENTS AND YOUTH OF AFRICA (NAYA – KENYA)

Clause 32 (a)

2087. Delete the proposal on moving pharmaceutical and health-related products from zero status to exempt to prevent an increase in the cost of medicines, medical supplies and healthcare equipment.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 31 (b)

2088. Delete the proposal to reduce the increased taxation on digital transactions and platforms and otherwise adopt equitable tax measures that protect access to essential healthcare services and support the affordability of digital health systems.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore

recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36 (a) (i)

2089. Delete the proposal to remove the 25% excise duty imposed on mobile phones to promote digital inclusion by maintaining affordable access to cellphones.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

3.3.164 METRO ALLIANCE

Clause 35, 36 (a) (i)

2090. Delete the proposal to impose 25% excise duty as well as taxation at the point of activation because it will price smartphones out of the reach of ordinary Kenyans, and the need to safeguard digital inclusion.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 31 (b)

2091. Delete the proposal because it will raise transaction fees for millions of Kenyans. The Committee can retain the exempt status for low-value digital financial services.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 31 (a) (ix) 169 on worn clothing

2092. Delete the provision because it will threaten a vital sector employing millions.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

Tax Procedures Act

2093. Delete the provisions on Clauses 41,42, 47 and 49 because there is need for fair, working day timelines and due process protections be preserved.

Committee Observation

The Committee noted the concern of the stakeholder but did not agree with the proposal to delete the entire clause 41 and 42 but proposed the deletion of clauses 47 and 49.

Income Tax Act

2094. Amend the Act to include a uniform 5% reduction in PAYE across all income bands. This will align the top personal tax rate (currently 35%) with the corporate tax rate (30%).

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

3.3.165 SLUM PEACE AND EMPOWERMENT CENTER, KIBERA JOY INITIATIVE AND DARAJA CIV

Rental Income Tax

2095. Delete the proposal that intends to increase the monthly rental income tax rate applicable to residential rental income from 7.5% to 10%. Tenants will face the economic burden of the increase, and even so, many of the consequences will be felt by the low-income households.

Committee Observation

The Committee observed that the proposal does not exist in the Finance Bill, 2026.

Clause 31 (b) (i)

2096. Delete the proposal because it is a regressive tax that imposes a proportionally heavier burden on low-income users through higher transaction fees. Mobile money has been instrumental in Kenya's financial inclusion, and therefore, increased transaction costs could discourage the use of digital platforms and undermine Kenya's internationally recognized success in financial inclusion. Consumers will migrate back to cash-based transactions, and informal traders will reject digital payment platforms. The committee should ensure that any taxation of the digital financial services sector is structured to fall on high-value, commercial transactions rather than small-value transfers made by ordinary Kenyans.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore

recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

3.3.166 aak-GROW/CROPLIFE KENYA

Clause 32 (a)

2097. Delete the proposal as the local manufactures are already using the provision to grow the manufacturing industry and generating employment to the local market as well producing affordable veterinary products to the farmer.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework

Clause 32 (h)

2098. Delete the proposal to support local manufacturers of animal feeds as they create employment.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.

NEW PROPOSAL

VAT ACT, First Schedule, Paragraph 149

2099. Delete paragraph 149 and insert the importation of inputs and raw materials supplied of agricultural pest control products to the second schedule for provide a zero-rated status on these items. The stakeholder submitted that the exclusion of these inputs means VAT incurred on supplies becomes an irrecoverable cost to manufacturers.

Committee Observation
The Committee noted that this proposal will lead to accumulation of tax refunds which the government has been trying to cure.

VAT ACT, First Schedule, Paragraph 150

2100. Delete paragraph 150 on Agricultural pest control products and insert the provision in the Second Schedule to read '*Pest Control Products'*. The stakeholder submitted that this will reduce tax yield arising out of reduced trade along both the agricultural input and product value claims.

Committee Observation
The Committee noted that this proposal will lead to accumulation of tax refunds which the government has been trying to cure.

VAT ACT, Second Schedule

2101. Amend the schedule by inserting a new provision to zero-rate all Pest Control Products for use in public health (for Mosquito control, bedbugs, rodents). The stakeholder stated that this amendment will reduce the transmission of diseases from animals to human thus achievement of the primary healthcare and also increase compliance in pesticide use in domestic dwellings & airplanes.

Committee Observation
The Committee noted that this proposal will lead to accumulation of tax refunds which the government has been trying to cure.

VAT ACT, Second Schedule

2102. Insert a new provision to zero rate fertilizers and micronutrients, foliar seeds and bio-stimulants of Chapter 38. According to the stakeholder, these inputs are essential agricultural inputs that support crop productivity, soil health, nutrient uptake and plant resilience to abiotic stress such as drought and flooding.

Committee Observation
The Committee noted that this proposal will lead to accumulation of tax refunds which the government has been trying to cure.

VAT ACT, Second Schedule

2103. Amend the schedule to provide for the zero-rate status on inputs or raw materials locally purchased or imported by manufacturers of fertilizers as approved from time to time by the Cabinet Secretary responsible for Agriculture. The stakeholder stated that local manufacturers of fertilizers are already using this provision to grow the

manufacturing industry in Kenya and generate employment to local and producing fertilizers that are affordable to the farmer.

Committee Observation
The Committee noted that this proposal will lead to accumulation of tax refunds which the government has been trying to cure.

3.3.167 MOKUA ONWONGA & CO.

NEW PROPOSAL
VAT ACT, Section 17 (6)

2104. Amend the section by inserting the following new proviso after subparagraph (c)

'Provided that where an exemption is granted under this Act in respect of goods or services supplied in furtherance of Government priorities in agriculture, tourism, infrastructure development, healthcare, Public-Private Partnerships or affordable housing, input tax attributable to such suppliers shall be deductible against output tax for the relevant tax period, and any excess input tax shall be carried forward to the succeeding tax period in accordance with the Act.'

2105. The stakeholder submitted that the proposal strikes a balance between supporting national development objectives and protecting Government revenue while preserving the exempt status of the supplies.

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Income Tax Act, Third Schedule, Paragraph 2J

2106. Amend paragraph 2(j) to read as follows:

2 (j) In the case of a company whose business is local assembling of motor vehicles, fifteen per cent for the first ten years from the year of commencement of its operations;

Provided that-

(i) upon expiry of the initial ten-year period, the company may apply for renewal of the preferential rate for a further period of ten years at a time, subject to compliance with the prescribed conditions under (iii) and (iv);
(ii) an application for renewal under subparagraph (i) shall be made to the Cabinet Secretary responsible for the National Treasury, in consultation with the Cabinet Secretary responsible for Industrialization, in such form and manner as may be prescribed by regulations;

(iii) for the first, second and third renewal periods, the company shall demonstrate a minimum local content equivalent to ten per cent of the ex-factory value of the motor vehicles;

(iv) upon completion of the third renewal period, any subsequent renewal shall be subject to the company achieving and maintaining a minimum local content equivalent to twenty percent of the ex-factory value of the motor vehicles; and

(v) in this paragraph, "local content" means parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya.

(vi) the Cabinet Secretary may make Regulations for the better implementation of this paragraph within six months from the commencement of this provision.

2107. According to the stakeholder, the amendment will ensure investment stability and regional competitiveness.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.168 KENYA COFFEE PRODUCERS' ASSOCIATION (KCPA)

2108. The Kenya Coffee Producers Association (KCPA) submitted on the proposed introduction of a 5% tax on coffee gross sales. It is their view that while taxation remains a constitutional obligation of all citizens and economic actors under Article 209 and 210 of the Constitution, this tax combined with the existing coffee development and marketing levy will inevitably be transmitted down the value chain and absorbed by farmers through compressed cherry prices, directly undermining household incomes, rehabilitation investments, climate resilience initiatives and Kenya's positioning in premium global markets. The Association proposes the 5% tax levy be pended pending an independent, evident evidence-based sector impact assessment commissioned by the National Treasury in collaboration with coffee research institute and county agricultural departments.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.169 KENSWITCH LIMITED

Clause 31(b)(i)

2109. Delete the proposed new Subparagraph (b)(ii) so that core payment execution services such as the switching, gateway, routing, merchant acquiring, aggregation, clearing, settlement and reconciliation services shall remain exempt. The stakeholder

submitted that the Bill should tax the economic activity enabled by digital payments, not the payment rails that make that activity visible and formal.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

3.3.170 MT. KENYA NETWORK FORUM (MKNF)

New Proposal – Value Added Tax

First Schedule

2110. Remove VAT exemptions on non-essential luxury goods, private education fees above a certain threshold, and specific financial transactions that primarily benefit high-income earners. According to the stakeholder, this will avail Kshs 100 billion which they proposed can be used to clear pending bills for small businesses, fund youth employment programs, and equip public hospitals with essential medicines.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.171 UNITED GREEN MOVEMENT PARTY'S NATIONAL YOUTH LEAGUE AND THE YOUNG ASPIRANTS LEAGUE

Clause 2 (b)

2111. Delete the proposal as it will lead to double taxation and it seeks to legislate around an already determined matter in court.

Committee Observation

The Committee noted the concerns raised by the stakeholder but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides

prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2(c)

212. Delete the proposal as payments to network services, switching systems, and clearing systems will be subjected to withholding tax.

Committee Observation

The Committee noted the proposal by the stakeholder but did not agree to delete as the inclusion of payments to network services, switching systems and clearing systems seeks to clarify the tax treatment of income derived from digital payment infrastructure and enhance tax certainty and administration in the digital economy.

Clause 18 and 19

213. Amend the provisions to provide for a tiered filing system where only taxpayers with gross turnover above Kshs 500 million file within 4 months. Additionally, SMEs with turnover below 50 million retain a 6-month deadline with simplified filing. The stakeholder submitted that the proposed 4-month filing deadline was too short and operationally impossible for businesses that require completed audits before filing thus increasing compliance costs.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31(a)(vii)

214. Delete as this will increase construction costs and lead to fewer units being built.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects

under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31(a)(ix)
Paragraph 160

2115. Delete as local feed manufacturers will have to pay more for inputs and thus lead to higher food prices.

Committee Observation
The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.

Paragraph 161

2116. Delete because it will increase drug prices since manufacturers will have to absorb higher input costs

Committee Observation
The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Paragraph 165

2117. Delete as prices will rise for urban commuters, delivery-based business models and boda boda operators who chose e-bikes.

Committee Observation
The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of electric bicycles. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for electric bicycles as 8712.00.00. The

Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Paragraph 166

2118. Delete as the cost of off-grid solar systems will rise. Additionally, rural electrification through solar will become more expensive.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Paragraph 167

2119. Delete as the cost of electric buses/vehicles will rise.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of Electric Buses. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal

Paragraph 169

2120. The stakeholder proposes that the mitumba sector be subjected to a turnover tax on actual sales, and not deemed income tax on unrealized profits. According to the stakeholder, the Finance Bill 2026 introduces a new income tax regime for importation of worn clothing under tariff heading 6309.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposal seeks to exempt VAT on worn clothing and footwear by providing clarity on the point of taxation and ensuring effective tax administration within the largely informal mitumba sector. The Committee noted the submissions from Mitumba Consortium requesting to have one tax as a final tax. Therefore, the committee recommended introducing a new provision in the Income Tax Act deeming taxable profit at five percent of customs value, with tax payable upon importation as a final tax, and applying a thirty percent rate on the deemed profit. In view of this, the Committee recommended that the clause be amended as contained in the Bill.

Clause 31(b)(i)

2121. Delete the proposal and retain VAT exemption on digital payments

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(xxxv)

2122. The stakeholder submitted that the proposed 5% excise duty on coal represents climate policy incoherence given the Bill strips away tax incentives for its clean alternatives.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the measure is intended to support environmental sustainability objectives by discouraging reliance on highly polluting fossil fuels and promoting a transition towards cleaner and greener energy alternatives.

Clause 36(a)(xiv) to (xxxiii)

2123. Delete the proposals as they present treaty violations and retaliatory measures.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 38

2124. The stakeholder proposed that the regulations should explicitly provide for privacy protections for retail investors.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder concerns.

Clause 41

2125. Amend the definition of 'scheme' in the proposed new Section 18A(4). The stakeholder submitted that the definition was too broad providing that legitimate commercial structuring could be caught. The stakeholder proposed the insertion of the following subsection:

> *Before issuing an assessment under subsection (1), the Commissioner shall refer the matter to the Tax Appeals Tribunal for a preliminary determination that the arrangement constitutes a tax avoidance scheme.*

Committee Observation

The Committee noted the concern of the stakeholder but finds the definition suffices as provided in the clause. The Committee acknowledged stakeholders' concerns noting the need for safeguards to ensure legal certainty and proper application. The Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 45

2126. Delete the proposal as it is a direct afront to Article 47 of the Constitution.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 48

2127. Amend the proposed new subsection (2) under Section 75 of the TPA to grant a taxpayer the right to correct or dispute a pre-populated return before filing.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

New Proposals

Income Tax Act

Firsts Schedule – Head A

2128. Amend the personal income relief to Kshs 3,000 with the tax free threshold being Kshs.30,000

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

First Schedule – Head B

2129. Amend the ITA to reduce the corporate tax for affordable housing developers to 15%.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

2130. Revise the PAYE tax bands by lowering the highest rate from 35% to 28% . The tax bands should be as follows:

On the first Kshs. 30,000 – 10%

On the next Kshs.30,000 – 15%

On the next Kshs.30,000 – 20%

On the next Kshs.410,000- 25%

All income above Kshs.510,000 – 28%

Committee Observation

The Committee observed that it had received many similar proposals on the adjustment of the PAYE tax band. Further, the Committee noted that the National Treasury was exploring a balanced way of improving progressivity in the Personal Income Tax system without having a significant shock in the reduction of tax revenues. The Committee therefore recommended that the National Treasury explores the proposal with a view to addressing the concerns of the stakeholders.

Third Schedule

2131. Replace the flat 10% rate with a graduated Monthly Rental Income structure as below:

Annual rental income below Kshs 288,000 – 0%

Between Kshs 288,000-3,000,000 – 5%

Above 3,000 – 10%

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

New Proposal - Excise Duty Act

Eighth Schedule

Amend the Eighth Schedule by inserting

2132. No capital gains tax shall be payable on the disposal of a person's principal private residence where the person has occupied the property as their primary residence for not less than three years prior to disposal.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.172 GITHURAI SOLIDARITY CARE NETWORK

Clause 2(c)

2133. Delete the proposal because it broadens the definition without clear safeguards and exclusions for essential digital financial systems and low-income users. Digital platforms are essential for informal workers, caregivers, women entrepreneurs and domestic workers and increased taxation could raise the cost of mobile transactions, online work, communication and financial inclusion tools relied upon by vulnerable communities.

Committee Observation

The Committee noted the proposal by Githurai Solidarity Care Network the stakeholder but did not agree to delete the proposal as it seeks to clarify the tax treatment of income derived from digital payment infrastructure and enhance tax certainty and administration in the digital economy.

Clause 31(a)(vii)

2134. Delete the proposal and retain the existing VAT-exemption on affordable housing construction inputs. This is because affordable housing directly supports family welfare, dignity, caregiving and community stability. Increased construction costs worsen housing insecurity and overcrowding, particularly in low-income urban communities.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clauses 31(a)(ix)160,162 and 32(f),(h)

2135. Delete the proposals and maintain animal feeds and related agricultural inputs as zero-rated. This is because food prices directly affect the care economy. Women and caregivers are primarily responsible for feeding households and increased food costs deepen poverty, malnutrition and unpaid care burdens within households.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.
The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clauses 31(a)(ix)166,168 and 32(f), (i)

2136. Delete the proposals and retain the zero-rating for green energy products and clean cooking technologies. This is because affordable clean energy reduces the unpaid care burden associated with cooking, fuel collection and household energy management. It also improves health outcomes and environmental sustainability.

Committee Observation
The Committee acknowledged the stakeholder's concerns that transferring goods from VAT zero-rated status to VAT exempt status may increase production costs by denying recovery of input VAT and could result in higher consumer prices. However, the Committee observed that the proposed amendment seeks to rationalize VAT zero-rating in line with the National Tax Policy and the Medium-Term Revenue Strategy, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds. The Committee nevertheless agreed that retaining the zero-rated status for solar lithium-ion batteries would support predictability and investment in the sector and therefore recommended deletion of the proposal in respect of solar lithium-ion batteries, while further amending the provision to specify tariff code 8507.60.00.

Clause 31(b)(i)

2137. Delete the proposal and retain VAT exemptions on essential low-value digital financial transactions because mobile money is a lifeline for caregivers, domestic workers, self-help groups and informal workers. Increased transaction costs reduce financial inclusion and increase the burden on already struggling households.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 36(a)(i)

2138. Reduce or reconsider the proposal particularly for low-cost smartphones. Mobile phones are no longer a luxury good. They are essential tools for communication, digital banking, caregiving coordination, access to government services, emergency response, education and livelihoods. Increasing costs deepens digital inequality and exclusion.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clauses 41 and 42

2139. Amend the proposals to establish clear rules distinguishing taxable income form caregiving support, remittances, welfare transfers and family support funds. Furthermore, introduce judicial oversight, strict data protection safeguards and limitations on access to personal data. This is because without clear distinctions, vulnerable households could face harassment, wrongful assessments and invasion of privacy contrary to Article 31 of the Constitution. Additionally, low-income households and caregivers rely heavily on mobile money systems for daily survival and unregulated access to financial data may discourage financial inclusion and expose vulnerable citizens to exploitation and insecurity.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended

amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 45

2140. Delete the proposal and instead maintain strong taxpayer appeal rights and independent review mechanisms. This is because caregivers and low-income households often lack legal representation and financial resources to challenge tax disputes. Fair appeal systems are necessary to protect vulnerable taxpayers from abuse and arbitrary enforcement

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 50

2141. Amend the proposal to introduce flexible compliance support systems and scale penalties based on income and business. Furthermore, increase taxpayer education and provide for phased implementation. This is because many caregivers combine unpaid care responsibilities with informal income-generating activities and harsh penalties risk pushing vulnerable businesses further into poverty and informality. A care-responsive tax must recognize unequal access to time, technology and financial resources.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but supported the proposed amendment to strengthen penalties for non-compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract

punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

New Proposals

2142. The residential rental income tax rate should remain at 7.5% introduce safeguards to protect affordable housing and low-income tenants. This is because housing is a core component of the care economy and increased rent reduces household income available for food, childcare, healthcare, transport and education.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

General Comments

2143. Parliament should consider gender-responsive and care-responsive taxation policies that recognize unpaid care and domestic work as a key contributor to Kenya's economy.

2144. All tax proposals should undergo social and economic impact assessments focusing on women, caregivers, youth, PWDs and low-income households.

2145. Essential household services and goods including housing, food production inputs, digital financial services, clean energy and communication tools should remain affordable and accessible.

2146. The Government should strengthen public participation and ensure inclusion of women's groups, caregiver, domestic workers, youth groups and informal workers in fiscal policy discussions. Revenue generation should not come at the expense of household welfare, financial inclusion, privacy rights and economic survival for vulnerable communities.

Committee Observation

The Committee noted the proposal by the stakeholder.

3.3.173 KAWANGWARE CARE SOLIDARITY NETWORK/KOROGOCHO CARE SOLIDARITY NETWORK

Clause 2(b) and (c)

2147. Retain exemptions or introduce a low-value shield transaction shield for essential household and community welfare payments. Digital finance is an inclusion tool and not a premium service and thus, the only safe and practical way for many caregivers to move money.

Committee Observation

The Committee noted the proposed amendment by Kawangware Care Solidarity Network but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money and therefore the proposal was not supported.

Clause 2(c)

2148. Narrow the scope of the definition of royalties so it does not unintentionally tax basic digital payment infrastructure used by low-income households and small-related enterprises. This is because digital finance is not a luxury for most caregivers rather it is how school fees, food, medicine, rent and emergency support are paid. Thus, a broader tax on digital payment rails risks increasing the cost of care and daily household management.

Committee Observation

The Committee noted the proposal by Kawangware Care Solidarity Network but did not agree to delete as the proposal seeks to clarify the tax treatment of income derived from digital payment infrastructure and enhance tax certainty and administration in the digital economy.

Clause 4

2149. Protect affordable housing and ensure simplified compliance for small-scale landlords while preventing the tax burden from being shifted to tenants. Housing is part of the care economy and when rent goes up, household budgets are squeezed first on food, childcare, transport and healthcare. Thus, the proposal should be calibrated so that revenue collection does not deepen housing insecurity or weaken caregiving capacity in already stretched households.

2150. Alternatively, clarify scope, protect family remittances and ordinary support flows and prevent the burden from landing on tenants and care-dependent households. Tax certainty is important, but care financing must not be destabilized by ambiguous rules that raise household living costs or create unintended barriers to support sent across borders.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the amendment is intended to strengthen compliance and

administration of tax on rental income earned by non-resident landlords through a simplified registration and withholding framework. The Committee further observed that the proposal already prevents double taxation where tax has been withheld by an appointed agent, while filing procedures, and implementation can be addressed administratively without weakening the proposed framework.

Clause 7(o), 17(a)(iii)(b)(q), 22(b)(ii)(y), (c)(r)

2151. Pair tax measures with youth employment, mental health, and prevention programmes rather than relying on taxation alone. The Bill reintroduces the tax treatment of winnings and broadens the definition of withdrawals. A purely punitive approach is not enough. The Unpaid Care and Domestic Work (UCDW) perspective asks Parliament to reduce the social harm that gambling places on young people, families, and already stretched care networks.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and resolved to harmonize taxation on betting.

Clause 31(a)(ix)160, 163,165,166,167, 168 and 32(c), (e), (f), (g), (h), (i)

2152. Delete the proposals. Instead, support the zero rating of essential green-energy and productive input items and expand it to clean cooking technologies and other care-reducing energy products. This is because for caregivers, cleaner and cheaper energy directly lowers time poverty and health risks.

Committee Observation

The Committee noted the concern of the stakeholder but did not agree with the proposal to delete the proposed clause 31 (a)167, 168 and 32 (e) and (i).

Clause 36(a)(i)

2153. Reconsider the increase an provide exemptions or loser rates for low-cost smartphones and educational devices because the proposed increase risks deepening digital inequality. In a care economy, phones are not luxury goods. They are essential work tools for households and informal livelihoods.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clauses 42, 45, 48, 49 and 52

2154. Add due-process safeguards, phased implementation, taxpayer education, and simplified support for micro and small enterprises, especially women-led and care-heavy households. For caregivers and small traders, the practical effect is more compliance pressure in less time. A care-responsive tax system must not assume equal time, digital access, or record-keeping capacity across taxpayers.

Committee Observation

The Committee noted the concern of the stakeholder but did not agree with the proposal to delete the entire clause 42, 48, 52 but recommends the deletion of 45 and 49.

3.3.174 THE ARCHITECTS ALLIANCE (TAA)

New Provisions

Mandatory Accruals Liquidation Plans

2155. Provide for mandatory accruals liquidation plans and ring-fence a portion of ministerial and departmental budgets for settlement of verified pending bills because outstanding obligations owed to contractors and consultants have constrained cash flow and delayed implementation of construction projects.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

Ring-Fencing of Funds for Clearance of Pending Bills

2156. Provide for ring-fencing of funds for clearance of verified pending bills before allocation of resources to new projects because timely settlement of arrears would support recovery of the construction sector and improve project completion rates.

Committee Observation

The Committee noted the submission by the stakeholder.

Enforcement of County Development Expenditure Requirements

2157. Introduce measures to enforce compliance with the statutory requirement that counties allocate at least thirty per cent of their budgets to development expenditure and provide dedicated allocations for county roads and water infrastructure because inadequate development expenditure has constrained implementation of housing and infrastructure projects.

Committee Observation

The Committee noted the submission by the stakeholder.

Incentives for Affordable Credit in the Construction Sector

2158. Introduce fiscal and financial measures to improve access to affordable credit for contractors, developers and construction professionals because high lending rates continue to impede investment and project delivery within the construction sector.

Committee Observation

The Committee noted the submission by the stakeholder.

Protection of Affordable Housing Programme Funding

2159. Provide safeguards to ensure adequate funding of the Affordable Housing Programme and timely settlement of obligations arising from housing projects because the programme supports growth within the construction and built environment sectors.

Committee Observation

The Committee noted the submission by the stakeholder.

Conditional Application of VAT Rate Adjustments

2160. Provide that any increase in VAT rates be accompanied by measures to ensure that additional revenue is utilised for settlement of pending bills and enhancement of development expenditure because tax increases should be linked to improved public investment outcomes.

Committee Observation

The Committee noted the submission by the stakeholder.

3.3.175 KAPA OIL REFINERIES

Clause 15

2161. Delete the provision repealing section 23 of the Income Tax Act because the repeal may create uncertainty regarding the application of anti-avoidance rules to related-party financing arrangements and investment structures.

Committee Observation

The Committee acknowledged the concerns raised by some stakeholders but observed that the proposed General Anti-Avoidance Rule provides a uniform framework for addressing tax avoidance across tax laws and empowers the Commissioner to disregard arrangements entered into primarily to obtain a tax benefit. The Committee further noted that the provision substantially replicates the existing anti-avoidance rule under the Income Tax Act that is being moved to the Tax Procedures Act for

administrative consistency. Consequently, the proposed additional safeguards and amendments were not considered necessary.

Clause 16

2162. Delete the provision requiring distribution of at least sixty per cent of distributable profits because manufacturers require retained earnings to finance working capital, expansion projects and capital investment. KAPA argued that the amendment would discourage reinvestment and undermine growth in the manufacturing sector.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that the proposed introduction of a 60 percent deemed dividend distribution threshold would impose an unnecessary burden on businesses and limit their ability to retain earnings for reinvestment, noting further that the existing legal framework already provides sufficient discretion to address tax avoidance concerns; in view of this, the Committee considered it appropriate to moderate the proposal to strike a balance between revenue protection and business flexibility.

Clauses 18 and 19

2163. Retain the current six-month period for filing income tax returns because large manufacturers require sufficient time to complete audits, prepare transfer pricing documentation and finalise tax computations. Reducing the filing period from six months to four months would increase compliance costs and the risk of filing errors.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 23(d)

2164. Delete the proposed taxation of gains derived from the alienation of shares by a non-resident person where the shares derive their value from Kenya because the provision may discourage foreign investment, restructuring transactions and capital inflows into the manufacturing sector.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the clause introduces a targeted measure to tax gains arising from offshore indirect transfers where the value is derived from assets located in Kenya, thereby closing existing loopholes that allow untaxed value extraction and strengthening the integrity of the capital gains tax framework.

The Committee further noted that the provision is intended to capture complex offshore arrangements, prevent structured avoidance, and protect Kenya's taxing rights over locally derived value, while any attribution, apportionment, or compliance concerns can be adequately addressed through Kenya Revenue Authority administrative guidance rather than statutory limitation. In view of this, the Committee did not support the proposals for deletion or amendment and recommended that the clause be retained.

Clause 27

2165. Amend the proposed section 17A of the VAT Act by introducing a transition period before recovery of previously claimed input VAT where taxable supplies become exempt because the amendment may adversely affect businesses holding stock, raw materials and packaging materials and result in cash-flow disruptions.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but does not support the proposal.

Clause 31(a)(ix)160 to 168

2166. Retain the zero-rated status for the above supplies rather than converting them to exempt supplies because exemption results in denial of input VAT claims and increases production costs. KAPA observed that the shift from zero-rating to exemption establishes a precedent that may undermine manufacturing competitiveness and increase consumer prices where producers are unable to recover input VAT.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment transfers selected Bioethanol vapour from VAT zero-rated status to VAT exempt status in order to rationalise VAT zero rating in line with the National Tax Policy and the Medium-Term Revenue Strategy. The Committee further noted that the

measure seeks to align the VAT treatment of inputs with that of final products, promote consistency in the VAT system, reduce tax expenditures, and ease pressure on VAT refunds.

Clause 32

2167. Retain the zero-rated status of goods proposed to be converted to exempt supplies because exemption results in denial of input VAT claims and increases the cost of production. KAPA argued that the proposed change may adversely affect manufacturers by converting recoverable input VAT into a cost of doing business, thereby reducing competitiveness and increasing prices to consumers.

Committee Observation

The Committee agreed with the stakeholder

Clause 36(a)(xxxv)

2168. Delete the proposal imposing excise duty on articles of plastic of tariff headings 3923.30.00 and 3923.90.90 because the measure would increase packaging costs for manufacturers of edible oils, soaps and detergents and ultimately raise consumer prices. Alternatively, exempt primary food-grade packaging materials from the proposed duty.

Committee Observation

The Committee noted the concerns of the stakeholder and observed that there are several provisions relating to Articles of Plastics. Therefore, it resolved to clean up the multiple provisions referencing Articles of plastics and resolved that excise duty should only be applied on imported Articles of plastics.

Clause 36

2169. Delete the proposal removing the words—

"but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin"

2170. The amendment may adversely affect regional trade, reduce competitiveness of Kenyan manufacturers and expose exporters to retaliatory trade measures within the region.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the East African Community Partner States that meet the East African Community Rules of Origin would be applied on a case-by-case basis rather than a blanket exclusion.

Clause 41

2171. Delete the proposed section 18A on tax avoidance schemes because the provision grants the Commissioner broad powers to determine tax liability based on information obtained from various sources and may create uncertainty for taxpayers undertaking legitimate commercial transactions.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 44

2172. Retain section 39A(2) of the Tax Procedures Act because deletion of the provision may result in double recovery of taxes from withholding agents where the principal tax has already been paid by the taxpayer.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that the proposed amendment would impose additional compliance burdens without sufficiently addressing the underlying administrative challenges in the withholding tax framework. The Committee further noted that existing enforcement mechanisms are adequate to support compliance and reduce revenue leakages without introducing the proposed change. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 45

2173. Retain section 42(14)(e) of the Tax Procedures Act because the proposed deletion would permit enforcement action before conclusion of tax disputes and may disrupt business operations through premature agency notices and account freezes.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that permitting agency notices during the pendency of objections, appeals, ADR processes, or court proceedings would undermine the right of appeal, weaken dispute resolution safeguards, and cause serious cash flow and operational disruptions to taxpayers. The Committee further

noted constitutional and practical concerns, including fair administrative action, access to justice, and delays in refunds where taxpayers succeed on appeal, while existing provisions under the Tax Procedures Act already provide sufficient safeguards. The Committee therefore agreed with the stakeholders and recommended deletion of the proposal.

Clause 46

2174. Retain section 44A of the Tax Procedures Act because the requirement for Certificates of Origin assists in verification of imports, prevents misdeclaration and protects local industry from unfair competition.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposed repeal of Section 44A of the Tax Procedures Act is intended to align import procedures with international standards and facilitate trade. The Committee further observed that the blanket requirement for Certificates of Origin imposes unnecessary compliance burdens, delays clearance, increases the cost of doing business, and conflicts with established customs practices under the East African Community framework.

New Provision

Amendment to the Definition of Input Tax

2175. Amend section 3(1) of the VAT Act by replacing the word *"and"* with *"or"* in the definition of input tax because the amendment would enhance clarity and facilitate recovery of legitimate input VAT incurred by manufacturers.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

Classification of Crude Palm Oil as a Raw Material for IDF and RDL Purposes

2176. Provide that crude palm oil under tariff code 1511.10.00 shall be treated as a raw material and therefore qualify for the applicable Import Declaration Fee and Railway Development Levy rates applicable to raw materials because crude palm oil is a key manufacturing input and should not be subjected to rates applicable to finished or intermediate products.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

3.3.176 CEREAL GROWERS ASSOCIATION

Clause 19

2177. Delete the proposal and retain the 6-month period. This is because cereal farmers often rely on accountants or cooperative officers after harvest and a reduction of filling time leaves insufficient time to compile records. Alternatively, amend the proposal to exclude Saturdays, Sundays and public holidays in the proposed 4-month period.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 36 (a)(i)

2178. Amend the proposal to exempt basic mobile phones for smallholder farmers from the proposed excise duty. This is because farmers, like other Kenyans, increasingly rely on mobile phones for market prices, weather information and mobile money and the proposal would make phones expensive and reverse the gains made in agricultural digitization.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 50

2179. Amend the proposal to provide an agricultural exemption or simplified alternative such as a presumptive tax paid at the point of sale of their produce as full and final tax. Most grain farmers are not tech savvy and many farm expense records are limited or non-e-TIMS compliant and thus, forcing e-TIMS on farmers would result in unintentional non-compliance, risking crippling tax penalties.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but supported the proposed amendment to strengthen penalties for non-

compliance with electronic tax systems, noting that the enhanced penalty framework under Section 86(3) of the Tax Procedures Act is intended to improve deterrence. The Committee further observed that while concerns on fair administrative action and taxpayer awareness are noted, system-related errors are outside the taxpayer's control and should not attract punitive measures. In view of this, the Committee recommended amending the proposal by replacing the penalty of two times the tax due with five percent of the tax due, while retaining the fixed monetary penalties, to ensure proportionality and effective enforcement.

Clause 51 (b)

2180. Amend the proposal to extend the waiver of penalty in the new section 5B to cover connectivity, power outages and farmer literacy levels with no upper limit to prevent exposing farmers to penalties for system-caused errors.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that proposals to include new criteria for waiver goes beyond the scope under section 89 of the Act.

New Proposal

2181. Amend Part A of the Second Schedule to the VAT Act to reinstate zero-rating for all key grain farming inputs because higher input costs directly reduce profits margins and ultimately lead to lower yields and production by farmers.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.3.177 THE INSTITUTION OF ENGINEERS OF KENYA (IEK)

Clause 2 (c)(vii)

2182. Delete the proposal as it will increase operational tax costs to businesses utilizing digital transactions methods and weaken digital financial inclusion.

Committee Observation

The Committee noted the concerns and in line with international best practices, recommended the deletion of the provision that proposes to define the distribution of software as an activity that generates royalties.

Clause 8

2183. Amend the proposal by inserting a new subsection immediately after subsection (2) as follows:

'Any income received by a trustee, executor or administrator shall retain the nature, character and tax treatment applicable to that income under this Act, including exempt income and income subjected to final withholding tax'

2184. The IEK submitted that the proposal in the Bill confuses beneficial ownership with fiduciary capacity, presents the risk of double taxation, discourages trusts and estate planning, and violates principles of tax certainty.

Committee Observation

The Committee acknowledged the proposal by the Institution of Engineers of Kenya but did not support it at this time as the proposal would need further assessment of its impact in tax administration and on revenue collection.

Clause 31

2185. Delete the proposals that seek to remove VAT exemptions on renewable energy products since it increases costs and slows adoption of clean energy technologies.

Committee Observation

The Committee acknowledged the concerns raised by the Institution of Engineers of Kenya and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of Electric Buses, Solar batteries, and electric bicycles. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. The Committee therefore agreed with the stakeholder and recommended deletion of the proposals.

Clause 36(a)(i)

2186. Delete the proposal that seeks to impose excise duty on mobile phones.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 36(a)(vi)

2187. Delete the proposal that seeks to impose excise duty at Kshs.18,000 per kg on cigars, cheroots and cigarillos. The stakeholder stated that the increase in excise duty might not stimulate investment in the industry.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but was of the view that the proposed increase in the excise duty rate on cigars, cheroots and cigarillos is intended to account for inflation, maintain the real value of the tax, and address the negative externalities associated with tobacco products.

Clause 41

2188. Delete the proposal as the proposal infringes privacy by granting the Commissioner to bypass regular accounting boundaries and determine a taxpayer's liability arbitrarily based on data gathered.

Committee Observation

The Committee acknowledged stakeholder's concerns but supported the introduction of a General Anti-Avoidance Rule to strengthen the tax framework, noting the need for safeguards to ensure legal certainty and proper application. However, the Committee recommended amending the provision to require written reasons based on substance-over-form analysis, allow advance rulings for complex transactions, and clarify that the rule applies prospectively to arrangements entered into after commencement.

Clause 42

2189. Delete the proposal as it proposes to grant KRA automatic system surveillance capabilities that bypass the Data Protection Act and citizens privacy.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of Section 29A to strengthen tax administration by allowing assessments based on best available information, while ensuring procedural fairness. In view of this, the Committee recommended amending the provision to require full disclosure of information, sources, and computation used in making assessments, provide that such disclosures are a condition for validity, and place the burden on the Commissioner to prove the accuracy and reliability of the information where an assessment is disputed.

Clause 48

2190. Delete the proposal as it proposes to grant automatic system surveillance capabilities that bypass the Data Protection Act and citizens privacy.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that safeguards are required for pre-populated returns and therefore recommended amending the proposal to allow taxpayers to accept, review, or object to the Commissioner's determinations while retaining the obligation to provide supporting evidence where necessary.

Overall Proposal

2191. The Stakeholder submitted that the Finance Bill proposes to impose additional tax on income derived from importing worn clothing, worn footware, and other worn articles of Tarriff heading 6309. According to the stakeholder, this would directly hit the low-income traders and consumers who rely on the mitumba industry.

Committee Observation

The Committee noted the stakeholder's concern regarding tax on mitumba and the potential impact on housing incomes. However, the Committee observed that the matter does not form part of the Finance Bill, 2026.

3,3,178 BUSSEM LIMITED

Clause 31(b)(iii)

2192. Delete the proposal removing the VAT exemption applicable to goods and services supplied directly and exclusively for the construction of tourism facilities, recreational parks of fifty acres or more, and convention or conference facilities approved by the relevant Cabinet Secretary because the amendment would increase construction costs by imposing VAT on capital-intensive projects that were planned and financed under the existing exemption framework. The stakeholder further submitted that tourism and hospitality developments require significant upfront investment in construction works, professional services, plant and equipment, fittings, furniture and utilities, and that the proposal would create substantial cash-flow pressures by requiring developers to incur VAT costs years before recovery through input tax claims. Additionally, the stakeholder argued that the amendment may discourage investment, reduce competitiveness of the tourism sector and undermine long-term economic benefits associated with tourism infrastructure development.

Committee Observation

The Committee acknowledged the input by Bussem Limited however it was of the observation that goods and services supplied for use in tourism projects are not specific to the tourism sector and, therefore, create an avenue for revenue leakage.

3.4 SUBMISSIONS FROM GOVERNMENT AGENCIES

3.4.1 MINISTRY OF INVESTMENTS, TRADE AND INDUSTRY

Clause 32 (c)

2193. Delete the provision and retain the zero-rated status of locally assembled phones.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of phones.

Clause 34

2194. Clarify by providing activation-based regulations ahead of commencement with clear allocation of liability across importers, manufactures, distributors and mobile network operators.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clause 36 (a) (i)

2195. Amend the provision by reducing the proposed excise duty on locally assembled phones from 25% to 5%.

Committee Observation

The Committee agreed with the concerns raised by the stakeholder and noted that the proposal could undermine digital inclusion, discourage local assembly and investment in the ICT sector, and adversely affect access to communication and digital services. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 55 (a) (ii) and (b) (ii)

2196. Amend the provision by extending the IDF and RDL exemptions for imported components and SKD/CKD kits used in local phones assembly.

Committee Observation

The committee noted the concerns of the stakeholder and resolved to delete the proposal in the Bill

New Proposals

Income Tax Act, First Schedule – Part I

2197. Amend by inserting the following new paragraph after paragraph 75 to read as follows:

76. Gains accruing from the transfer of real estate.

Provided that the exemption under this paragraph shall only apply where the transfer forms part of a restructuring, asset transfer arrangement, or acquisition undertaken under an approved Real Estate Investment Trust scheme.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Income Tax Act, Third Schedule Head B – Paragraph 2(h)

2198. Amend by substituting the paragraph to read as follows:

h. In the case of a Special Economic Zone Enterprise, whether the Enterprise sells its products to markets within or outside Kenya, Developer and Operator, ten percent for the first ten years after full utilization of the Investment Deduction Allowance as provided under Paragraph 1(A) (c) of the second schedule, and thereafter fifteen percent for another ten years.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

VAT Act, Section 5 (2)

2199. Amend by introducing a new paragraph after paragraph (ab) to read:

(ac) in the case of raw materials or input purchased for direct and exclusive use in floricultural and horticultural production, provided that at least ninety per centum of the annual production is destined for export, eight percent.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

VAT Act, Section 17 (2)

2200. Amend by deleting the word '*six*' and substitute with '*nine*'.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

VAT Act, First Schedule – Part 1

2201. Amend by inserting the following new paragraph after paragraph 157;

158. Imported printing paper for use in printing of schoolbooks.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

VAT Act, Second Schedule – Part A, Paragraph 12

2202. Amend by inserting the words "*developer, operator or*" immediately after the word "zone"

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

VAT Act, Second Schedule – Part A

2203. Amend by inserting the following new paragraph after paragraph 36;

37. Printed textbooks for use in schools.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Excise Duty Act, Second Schedule – Part 1

2204. Amend by deleting the corresponding rate of excise duty and substituting it with 10% in relation to the following:

(i) Imported Uncoated kraft paper and paperboard, in rolls or sheets; kraft liner; unbleached of tariff number 4804.11.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin";

(ii) Imported other kraft paper or paperboard weighing 150g/m^2 or less, in rolls or sheets; unbleached of tariff number 4804.31.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin;

(iii) Imported other kraft paper or paperboard weighing more than 150g/m^2 but less than 225 g/m^2 in rolls or sheets; unbleached of tariff number 4804.41.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin;

(iv) Imported other kraft paper or paperboard weighing 225 g/m^2 or more others in rolls or sheets; unbleached of tariff number 4804.51.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin;

(v) Imported printing ink of tariff 3215.11.00 and 3215.19.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin; and

(vi) Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90.

Committee Observation

The Committee noted the stakeholder's proposal and recommended that the exclusion of goods originating from the EAC partner states that meet the EAC Rules of Origin would be applied by a case-by-case basis rather than a blanket exclusion.

Stamp Duty Act, Section 96A

2205. Amend by deleting subsection (1) and substituting with the following new subsection:

(1) This section applies only to real estate investment trusts authorized under the Capital Markets Act, in respect of which it is shown to the collector

a) *that the effect thereof is to convey or transfer a beneficial interest in property from one trustee to another trustee, or to an additional trustee;*
b) *that the effect thereof is to convey or transfer a beneficial interest in property from a trustee to the real estate investment trusts; or*
c) *that the effect thereof is to convey or transfer a beneficial interest in property from a person or persons to the real estate investment trusts in exchange for units in the real estate investment trust.*

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to further consultation on the matter.

Stamp Duty Act, Section 96A

2206. Amend by deleting subsection (4) on exemption for instruments with regards to REITS.

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to further consultation on the matter.

Miscellaneous Fees and Levies Act, Third Schedule

2207. Amend by deleting the 10% levy on the following items:
i) 4804.21.00 Uncoated kraft paper and paperboard, in rolls or sheets; Kraft liner; Unbleached;
ii) 4804.21.00 Sack kraft paper; Unbleached; 4804.31.00 Other kraft paper and paperboard weighing 150 g/m^2 or less: Unbleached;
iii) 4804.29.00 Sack kraft bleached; and
iv) 4804.39.00 Sack kraft bleached.

Committee Observation
The Committee noted that the proposal is progressive and in line with government initiative to support local manufacturers and create employment. The Committee therefore noted that there was need for consultation to confirm the availability of local capacity to produce the timber products. This is to be done before conclusion of Second Reading of the Bill.

Companies Act, Section 974

2208. Amend by inserting of subsection (1) to read as follows:
Provided that this subsection shall not preclude a foreign company from suing, being sued, enforcing a right or incurring an obligation in Kenya under written law by reason of its non-registration.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

Companies Act, Section 974

2209. Amend by deleting subsection (2) and substituting with the following:

(2) For the purposes of subsection (1), carrying on business in Kenya but is not limited to —

a) being a party to an employment contract in Kenya;
b) holding a meeting of the shareholders or board of the foreign company in Kenya or conducting the internal affairs of the foreign company within Kenya;
c) establishing or maintaining an office or agency in Kenya for the transfer, exchange or registration of the securities of the foreign company;
d) lending money or providing any credit facilities to a person in
e) creating or acquiring any debts within Kenya or any mortgage or security interests in any property within Kenya credit facility, charge or security from a person in Kenya;
f) securing or collecting any debt or enforcing any mortgage or security interests within Kenya;
g) acquiring an interest in property in Kenya;
h) providing digital financial services or payment processing services to a Kenyan resident or to an institution via a payment network domiciled outside Kenya;
i) entering into a commercial agreement with a licensed Kenyan entity for the provision of financial technology, payment infrastructure, processing services;
j) conducting marketing, promotional or brand awareness activities through a digital platform accessible in Kenya where there is no physical presence or direct sales operations established in Kenya;
k) maintaining contractual relationships with Kenyan financial institutions, merchants or service providers for the facilitation of international transactions; or
l) using Kenyan-based third-party service providers for support functions including customer services, compliance services or data analytical services, without establishing a permanent establishment in Kenya.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Insurance Act, Section 22

2210. Amend by deleting the provision on prohibition of licensing requirements of having at least one-third of controlling interest in the body. This is to remove foreign ownership restrictions in the insurance sector to increase foreign investments.

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Export Processing Zones Act, Section 15

2211. Amend by deleting subsection (1) and substituting therefore the following new subsection—

(1) The Cabinet Secretary shall, on the recommendation of the Authority, with the object of attracting, promoting or increasing the manufacture of goods, or provision of services, for export, by notice in the Gazette, declare any area, land or building or part thereof in Kenya to be an export processing zone.

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Export Processing Zones Act, Section 15

2212. Amend by deleting subsection (2) and substituting therefore the following new subsection—

(3) A person who intends to develop an export processing zone shall apply to the Cabinet Secretary for a declaration made under subsection (1).

(4) An application made under subsection (3) shall be determined without undue delay.

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Export Processing Zones Act, Section 19

2213. Amend by inserting a new subsection after subsection (3) to read as follows—

(4) The Authority may suspend a license where the holder of the license—

(a) ceases to carry on the business in respect of which the license is issued:

(b) fails to fulfil a n obligation imposed under this Act;

(c) breaches the condition of the license;

(d) has been convicted for an offence under this Act;

(5) Where the Authority intends to suspend a license, it shall issue a notice in writing to the holder of the license specifying the reasons for the intended suspension and require the holder of the license to undertake the recommended remedial action within twenty-eight days of receiving the notice.

(6) Where the holder of a license receives a notice issued under subsection (5) does not undertake the recommended remedial action or the Authority is dissatisfied with remedial action undertaken by the holder, the Authority shall suspend the license.

(7) Upon suspension of a license under subsection (6), the Authority may revoke a license where the holder of the license does not undertake the recommended remedial action or the Authority is dissatisfied with remedial action undertaken by the holder for a period of at least six months.

(8) Where the Authority intends to revoke a license, it shall issue a notice in writing to the holder of the license specifying the reasons for the intended revocation and require the holder of the license to undertake the recommended remedial action within fourteen days of receiving the notice.

(9) Where the holder of a license receives a notice under subsection (8) does not undertake the recommended remedial action or the Authority is dissatisfied with remedial action undertaken by the holder, the Authority shall revoke the license.

(10) A holder of a license who intends to cease carrying on business in an export processing zone shall submit to the Authority a notice in writing of its intention a n d specify the effective date of the cessation of carrying on business.

(10) Upon receipt of the notice submitted under subsection (9), the Authority shall, on the effective date of the cessation of carrying on business, revoke the license.

Committee Observation
The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Export Processing Zones Act, Section 29

2214. Amend by inserting a new subsection after paragraph (h) to read as follows—
exemptions from the payment of the Standards Levy imposed under the Standards Act; (hub) exemptions from a manufacturing license issued under the Tea Act.

Com The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.
committee Observation

Special Economic Zones Act, Section 4

2215. Amend by deleting the words "*and in consultation with the Cabinet Secretary responsible for matters relating to finance*."

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, Section 4

2216. Amend by inserting the following new subsection after subsection (1):

(1A) Without prejudice to the generality of subsection (1), the Cabinet Secretary may declare a business process outsourcing or services-focused special economic zone where –

(a) the zone consists of a designated land area, building or part there of; and

(b) the special economic zone enterprise is licensed, provided that the enterprise—

(i) employ at least two hundred full time persons;

(ii) is fully export oriented; and

(iii) meets such other criteria as the Authority may prescribe.

(1B) Without prejudice to subsections (1), (1A) and (2) the business process outsourcing a n d services-focused Special Economic Zones may be exempt from being declared, by notice in the Gazette, as a special economic zone.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, Section 4

2217. Amend by inserting a new subsection after subsection (6) after paragraph (j) to read:

(k) educational zones for advanced training and centers for excellence;

(l) such other sector as may be prescribed by the Cabinet Secretary on the recommendation of the Authority.

Committee Observations

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, Section 27

2218. Amend by deleting subsection (2) and substituting with the following new subsection-

(2) On receiving an application for a licence or for a renewal of a licence, the Authority, may, on the recommendation of an operator and upon payment of the prescribed fee, issue to the applicant the appropriate licence or renew the licence, and inform the Commissioner of Customs.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, Section 27

2219. Amend subsection (5) by deleting subsection (d) and substituting with the following new paragraph-

(d) Shall remain valid from the date of issue subject to the payment of prescribed fees and inspection by the

Provided that—

i) the licence is not revoked or suspended by the Authority;
ii) the licence shall expire, if after twenty- four months after the issuance, the developer, operator or enterprise has not commenced operations in accordance with the license conditions;
iii) a special economic zone developer, operator or enterprise that fails to pay the prescribed annual fees within sixty days following each twelve-month following the date issuance of the first licence shall be required to pay double the amount of the annual fee.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, Section 34

2220. Amend by inserting the following new paragraph after paragraph (g)

(ga) the right to develop residential premises within the customs-controlled area of a special economic zone for use of persons employed within, and residing in, that Special Economic Zone;

provided that where such residential premises are sold, transferred, or otherwise disposed of, a one-off surcharge of two and a half percent of the selling price shall be levied at the point of first sale, transfer, or disposal.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, Section 35

2221. Amend subsection (2) by inserting the following new paragraphs after paragraph (i)

(ia) the payment of the Standards Levy imposed under the Standards Act for exports from a special economic zone: Provided that where goods are removed from a zone to a domestic market, any standard-related levy shall be assessed only on the value of domestic sales, not on the total annual turnover.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, Section 35

2222. Delete subsection (5) on incentives and tax benefits granted to a licensed special economic zones developer, operator or enterprise.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

Special Economic Zones Act, First Schedule

2223. Amend by inserting a new paragraph after paragraph (h) to read as follows:

(i) any other zone that may be declared by the Cabinet Secretary, on the recommendation of the Authority, by a notice published in the Gazette.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.4.2 MINISTRY OF EAST AFRICA COMMUNITY, ASALS, AND REGIONAL DEVELOPMENT

Excise Duty Act

2224. They proposed an amendment to the Excise Duty Act to change the definition of "imports" so that goods originating from East African Community (EAC) Partner States are not treated as ordinary imports but as transfers within the regional bloc. The proposal seeks to exempt qualifying EAC goods from excise duty and related import charges that currently apply when such products enter Kenya. They argued that the amendment was necessary to align Kenya's laws with EAC Customs Union commitments and directives issued by EAC organs requiring Partner States to harmonize domestic laws by June 2026.

2225. They further raised concern that the Finance Bill, 2026, omitted the proposed amendment despite Kenya having already prepared the Excise Duty (Amendment) Bill, 2025, and the Miscellaneous Fees and Levies (Amendment) Bill, 2025, to address the issue. They warned that failure to adopt the proposal could expose Kenya to retaliatory domestic taxes and levies from other EAC Partner States on Kenyan exports, particularly manufactured goods, given that the EAC market accounts for a significant share of Kenya's exports. They also noted that continued treatment of EAC-origin goods as imports could be viewed as maintaining Non-Tariff Barriers (NTBs), contrary to the principles of regional integration under the EAC framework, and could strain trade relations with countries such as Uganda and Tanzania.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.4.3 STATE DEPARTMENT FOR ROADS

Clause 57

2226. Adopt the provision to amend section 7(6) of the Miscellaneous Fees and Levies Act because a review of the Roads Annuity Fund undertaken after ten years of operation established that projects implemented under the annuity model were comparatively more costly than projects procured under the Public Procurement and Asset Disposal Act and generally yielded negative value for money. The State Department observed that the Government has resolved not to undertake any new projects under the annuity model and that the Fund will only cater for existing obligations relating to completed projects. Consequently, projected inflows at the current rate of Ksh3 per litre exceed the Fund's financing requirements. Reducing the allocation to Ksh1.50 per litre would align collections with existing obligations while allowing the surplus to support ongoing road projects facing funding constraints and alternative financing mechanisms, including securitisation of fuel levy revenues.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted that the proposal reduces the allocation to the Annuity Fund from KSh 3 to KSh 1.5 per litre, as no new annuity projects are planned and existing obligations can be met under the revised inflows. The Committee further observed that the reallocated funds will enhance road maintenance financing and support the approved securitization framework.

3.4.4 OFFICE OF THE AUDITOR GENERAL (OAG)

Clause 10

2227. Amend the proposal to clarify whether the deduction will be yearly or cumulative for the entire period of the loan repayment.

Committee Observation

The Committee agreed with the stakeholder that extending mortgage interest relief to Central Bank of Kenya employees who already receive loans at preferential rates would create inequality in the tax system, as it would amount to an additional benefit over and above the concessional lending terms enjoyed by such employees compared to other taxpayers. The Committee therefore resolved to delete the proposal.

Clause 13 (c)

2228. Amend the proposal to include an additional definition for a Group UPE which is a single entity. OAG submitted that the extended definition of UPE is necessary to ensure that a domestic entity that engages in cross-border operations through PEs is subject to the Global Anti-Base Erosion Model (GloBE) Rules.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment clarifies the definition of "ultimate parent entity" as the main company in a multinational enterprise group that owns or controls other group entities and is required to prepare consolidated financial statements.

Clause 19

2229. Delete the proposal as taxpayers with income but who trade at a loss will be disadvantaged and may not be able to comply with the provision as they are required to do the accounting to establish the losses.

Committee Observation

The Committee acknowledged the stakeholders' concerns and noted that the proposal to revise filing timelines would improve compliance and tax administration efficiency by simplifying filing and reducing administrative burden. The Committee further observed that nil returns require minimal effort while corporate returns require additional time consistent with current practice. In view of this, the Committee recommended amending the clause to allow individuals four months and corporates six months to file returns.

Clause 31 (a) (vii)

2230. Delete the proposal as it is likely to make affordable housing units more expensive, with developers expected to pass the additional costs to buyers. The stakeholder

further stated that the amendment is inconsistent with the objectives of the Government's affordable housing agenda under the Bottom-Up Economic Transformation Agenda (BETA).

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31 (a) (viii)

2231. Amend the proposal by delaying its implementation until an assessment is conducted to determine whether the current exemption has achieved its intended economic objectives before its withdrawal. It is the stakeholder's view that the amendment is likely to escalate production and operational costs for affected industries.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that the proposed amendment rationalises VAT exemptions on selected goods and services in order to broaden the tax base and enhance efficiency and equity in the VAT system.

Clause 31 (a) (ix) – Paragraph 160

2232. Delete the proposal as farmers will not be able to claim input VAT upon purchase of animal feeds and that will be passed to the consumers therefore increasing the price of animal feeds.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for animal feeds would increase the cost. Therefore, the committee recommended to delete the proposal.

Clause 31 (a) (ix) – Paragraph 161

2233. Delete the proposal as it will impact the production cost of substances used for medical treatments and that would negatively impact strides made towards achieving Universal Health Coverage of the BETA pillar.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 31 (a) (ix) – Paragraph 170

2234. Delete the proposal and strengthen expenditure controls and project implementation in the utilization of public resources.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 31 (b) (i)

2235. Delete the proposal since the it goes against the transformation of Micro, Small and Medium Enterprises (MSME) economic agenda under the Bottom-Up Economic Transformation Agenda as outlined in the Budget Policy Statement.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 39

2236. Amend the proposal by clarifying as to whether the reinstatement would only be permissible where the relevant statutory dissolution processes have not been fully concluded or where revival of the entity is legally recognised under other applicable

laws, and that any application for re-registration should be subject to compliance with those separate legal regimes prior to consideration by the Commissioner. The stakeholder further submitted that the proposal does not adequately address the legal and procedural circumstances under which deregistration occurs under Section 10 of the Tax Procedures Act, which typically includes situations such as the winding up or liquidation of a company or the death of a natural person.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but supported the introduction of a statutory timeline for determining reinstatement applications, noting that it enhances efficiency, fairness, and certainty in tax administration. The Committee further observed that deemed approval strengthens predictability for taxpayers, while cautioning that broadening the grounds for reinstatement could lead to abuse. In view of this, the Committee recommended amending the provision to provide a ninety-day timeline for determination of applications.

Clause 40

2237. Delete the proposal as this raises potential alignment questions with the broader regulatory framework governing banking and capital markets in Kenya.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but supported a targeted exemption from the PIN requirement for foreign investors opening CDSC accounts, noting that this facilitates capital market participation. The Committee further observed that extending the exemption to investment institutions would enhance efficiency in account opening processes while maintaining regulatory safeguards. In view of this, the Committee supported a balanced approach and recommended amending the provision to include financial institutions within the exemption framework, while ensuring appropriate measures are retained to safeguard compliance and transparency.

Clause 43

2238. Delete the proposal because it may have unintended effect of delaying early tax collection and weakening compliance discipline.

Committee Observation

The Committee noted that the waivers and timelines provided in the Bill are sufficient.

Clause 53 (a)

2239. Delete the proposal since it will negatively impact revenue mobilization efforts and deny KRA resources towards domestic revenue enforcement initiative.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but noted the need to ensure that the Kenya Revenue Authority is adequately resourced to enhance revenue collection and strengthen tax administration. In view of this, the Committee agreed to delete the proposal.

Clause 57

2240. Accept the proposal since with the establishment of the National Infrastructure Fund and the Sovereign Wealth Fund, there is no need to continue levying more for the roads construction.

New Proposal

Miscellaneous Fees and Levies Act, Section 7 (6)

2241. Amend the section by providing clarity to which fund these amounts collected under this section are paid into. The stakeholder submitted that the Section identifies a fund be established under defined under the PFMA framework.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.4.5 CAPITAL MARKETS AUTHORITY (CMA)

Clause 20(b)

2242. Amend the proposed paragraph 76 of Part I of the First Schedule to the Income Tax Act by inserting words "to" and "from" to read—

"76. Any capital gains relating to the transfer of property to and from a real estate investment trust."

2243. Exempting transfers to a real estate investment trust would incentivise originators to utilise REIT structures, while exempting transfers from a real estate investment trust would incentivise unit holders through the availability of the exemption.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that while the proposed exemption supports capital market development through REITs, it lacks adequate safeguards and could be

exposed to abuse through artificial restructurings, quick cash-outs, or related-party transactions. The Committee further noted that aligning the provision with international best practice requires clear anti-abuse conditions, including that transfers be undertaken for bona fide commercial purposes, consideration be in REIT units, transferred property be retained in the REIT for a minimum period, and that transferors do not retain controlling interests post-transfer. In view of these concerns, the Committee recommended amendment of the clause to incorporate the necessary safeguards while retaining the policy intent of the exemption as contained in the Bill.

Clause 38

2244. Amend the provision requiring virtual asset service providers to file information returns by defining the terms *"reportable user", "reportable person"* and *"controlling person"* because the terms are not commonly understood and are not defined under the Virtual Assets Service Providers Act, 2025, thereby creating uncertainty in implementation.

2245. Additionally, amend Part (6) of the clause imposing a penalty of Ksh1,000,000 for failure to file an information return or nil return by reducing the penalty to Ksh200,000 because the proposed penalty is excessive, particularly for start-ups and smaller virtual asset service providers such as virtual asset advisers and virtual asset brokers, while a lower penalty would still serve as an effective deterrent.

Committee Observation

The Committee acknowledged the stakeholders' concerns but supported the introduction of a Crypto-Asset Reporting Framework under a new Section 6C to enhance tax transparency for virtual assets, noting the need for a clear legal framework and appropriate safeguards aligned with the Data Protection Act and constitutional privacy requirements. In view of this, the Committee recommended that the provision be amended to address the stakeholder concerns.

The Committee acknowledged the concerns raised by the stakeholder but noted that a legal framework for crypto-assets is necessary to align with OECD standards and ensure effective taxation of a sector with significant transaction volumes. Therefore, the penalties provided in the Bill are commensurate.

Clause 40

2246. Amend section 12(5B) of the Tax Procedures Act by inserting the words *"and financial institution"* immediately after the words *"investment bank"* so that the provision reads—

"A non-resident person shall be exempt from the requirement of a PIN when opening an account with an investment bank and financial institution."

2247. CMA noted that the amendment would broaden the scope of the exemption to include other financial institutions such as custodians.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but supported a targeted exemption from the PIN requirement for foreign investors opening CDSC accounts, noting that this facilitates capital market participation. The Committee further observed that extending the exemption to investment institutions would enhance efficiency in account opening processes while maintaining regulatory safeguards. In view of this, the Committee supported a balanced approach and recommended amending the provision to include financial institutions within the exemption framework, while ensuring appropriate measures are retained to safeguard compliance and transparency.

Clause 51(b)

2248. Amend the proposal limiting waiver of penalties and interest arising from electronic tax system errors to liabilities not exceeding two million shillings by allowing the Commissioner to waive such penalties and interest irrespective of the amount involved. CMA argued that the rationale for the two-million-shilling threshold is unclear and that taxpayers should not be penalised for errors generated by electronic tax systems.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that proposals to remove or increase the cap are not supported, as the limit is intended to ensure accountability, consistency, and prudent management of penalty waivers.

New Provision

Expansion of the Definition of Infrastructure Bonds

2249. Amend section 2 of the Income Tax Act by revising the definition of *"infrastructure bond"* as follows—

'Infrastructure bond' means a bond issued by the Government, County Governments, Development Finance Institutions, Public and Private entities for the financing of a strategic public infrastructure facility including a road, hospital, port, sporting facility, water and sewerage system, a communication network or energy project.

2250. This amendment would align the definition with the existing exemption under paragraph 51 of the First Schedule to the Income Tax Act, promote equality in the tax

treatment of infrastructure financing instruments and encourage infrastructure bond issuances by the private sector.

Committee Observation

The Committee noted the proposal by CMA but it was of the view that it expands the definition beyond the scope of National government.

3.4.6 COMMUNICATION AUTHORITY OF KENYA (CAK)

Clause 2(b)

2251. Amend the clause to clarify interaction with VAT royalty provisions and prevent double taxation of the same fee stream. Delete the words:

"and includes interchange fees and merchant service fees arising from transactions that use a card as a means of payment"

2252. This would be a caution to avoid cumulative taxation of the same transaction across the value chain because the interest is in affordability and continued digital payment adoption.

Committee Observation

The Committee noted the concerns raised by the stakeholder but observed that the amendment clarifies the tax treatment of card transaction-related fees by closing a gap where interchange and similar fees were not clearly captured under the withholding tax framework, and that it provides prospective clarification to improve tax certainty. The Committee further noted that while concerns on implementation were raised, these can be addressed administratively and do not justify deletion of the clause, as the amendment targets taxable payments within digital payment systems rather than ordinary consumer transactions such as mobile money, and therefore the proposal was not supported.

Clause 2 (c)

2253. Amend the proposal to substitute the proposed definition of 'royalty' with the following narrower text:

"'royalty' means a payment made as consideration for the use of, or the right to use, any copyright, patent, trademark, design, model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, but does not include-

(a) a payment for the mere use of software for the payer's own internal business operations where no right is granted to reproduce, modify, distribute, commercially exploit or otherwise deal in the copyright beyond the rights strictly necessary to enable such use;

(b) a payment for software-as-a-service, cloud services, hosting, standard maintenance, support or training services;

(c) a payment for payment processing, switching, clearing, settlement, gateway, merchant acquiring, network access, platform access or similar service, unless the payment is principally for the alienation, licensing or assignment of a copyright or other intellectual property right; and

d) a payment made through a distributor in respect of software, unless the distributor is granted rights to exploit the copyright in the software."

2254. The proposed amended definition is far wider than a classical royalty concept and would affect nearly every ICT sub-sector. Broad wording could increase ICT input costs.

Committee Observation

The Committee noted the proposal by the stakeholder and proposed to undertake research and stakeholder consultation.

Clause 29

2255. Amend the proposal to provide simplified e-invoicing procedures and transitional support for small digital traders and platform-based merchants because it will request proportional implementation for SMEs and platform merchants.

Committee Observation

The Committee considered the concerns raised by the stakeholder and agreed that extending the eTIMS invoicing requirement to all persons would impose significant compliance costs and administrative burdens, particularly on small and informal businesses lacking adequate digital capacity. The Committee further noted that the proposal would expand obligations beyond VAT-registered persons without corresponding tax benefits and could create disproportionate compliance challenges. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 31 (b) (ii)

2256. Amend the proposal to propose a joint technical review by the National Treasury, KRA, CBK and CA because a potential 16% VAT on digital payment commissions may increase merchant service costs and low-value transaction costs.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder but observed that specifically referring to M-Pesa would unnecessarily limit the scope of the VAT exemption and reduce the flexibility of the provision in addressing evolving payment technologies. The Committee therefore recommended amendment of the clause to adopt a broader, technology-neutral framework covering money transfer services and related transactions, while clearly distinguishing taxable ancillary services such as cash handling and payment processing. The Committee further noted the need for a clear definition of "payment service provider" to ensure certainty, consistency, and effective application of the law as contained in the Bill.

Clause 32 (a)

2257. Amend the proposal to replace the proposed exemption with the following:

"*Telephones for cellular networks and other wireless networks shall be zero-rated for purposes of Value Added Tax.*"

2258. Alternatively, where the exemption is retained:

"*A mechanism shall be established to allow for the refund or recovery of input VAT attributable to the importation, manufacture or supply of telephones for cellular networks and other wireless networks.*"

2259. Maintaining a zero-rated treatment preserves the right to recover input VAT, prevents tax cascading throughout the supply chain and ensures that the full benefit of the tax relief is passed on to consumers.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that rationalising VAT exemptions on selected inputs or raw materials locally manufactured for pharmaceutical products would increase the cost. The Committee further noted that these inputs were only recently moved to zero-rated status under the Finance Act, 2023 to support local industries and reduce the cost of essential goods, and that reverting them to exempt status would undermine the objectives of that reform and create uncertainty in the tax framework.

Clause 32 (a) on solar and lithium-ion batteries, and electric buses

2260. Amend the clause to replace the proposed exemption with the following:

"*Solar power systems,lithium-ion batteries, energy storage systems and related equipment imported or supplied for use in licensed telecommunications infrastructure, Universal Service Fund projects and critical digital infrastructure shall remain zero-rated for purposes of Value Added Tax.*"

2261. Retain zero-rating or provide targeted relief for batteries and renewable-energy inputs used in licensed communications infrastructure and USF-supported projects. Retaining zero-rating for renewable energy technologies deployed in telecommunications infrastructure preserves input VAT recovery, lowers infrastructure deployment costs and supports the expansion of reliable communications services throughout the country.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clause 32 (b) (iv)

2262. Amend the proposal to define qualifying infrastructure to include ICT/digital infrastructure and consider zero-rating for strategic digital infrastructure PPPs because it is useful for fibre, towers, data centres, satellite and shared digital infrastructure if ICT infrastructure is expressly recognised.

Committee observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

Clause 32 (a)

2263. Amend the clause to retain zero-rating for strategic ICT goods and infrastructure inputs, including: Telephones for cellular and wireless networks, Solar power systems deployed in telecommunications infrastructure, Lithium-ion batteries used in communications networks, Broadband and telecommunications infrastructure equipment and other ICT infrastructure components designated by the Cabinet Secretary. The migration of strategic ICT products from zero-rating to exemption may increase the cost of telecommunications infrastructure deployment, raise the cost of network equipment and energy systems, reduce incentives for local assembly and

manufacturing, increase capital expenditure requirements for network operators, and reduce the affordability of digital access devices.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that transferring selected goods and services from VAT zero-rated status to VAT exempt status would increase production costs by denying businesses the ability to recover input VAT, costs that are likely to be passed on to consumers through higher prices of solar lithium-ion batteries. It also noted that retaining the zero-rated status would promote predictability and stability in the tax system, enabling businesses and investors to make long-term investment decisions with confidence. It further amended the proposal to provide tariff codes for solar lithium-ion batteries as 8507.60.0. The Committee therefore agreed with the stakeholder and recommended deletion of the proposal.

Clauses 35,36 (a) (i)

2264. Delete the proposals on the clauses, and a differentiated excise framework should be considered to promote digital inclusion. The entry-level smartphones should be charged 0% excise duty, mid-range smartphones should be charged 5% excise duty, and premium devices charged 10%. An increase to 25% excise duty is likely to increase the retail cost of devices and may disproportionately affect low-income households, students, rural communities and first-time internet users. The proposal to shift the excise duty point from importation or manufacture to activation introduces significant operational, legal and regulatory challenges.

Committee Observation

The Committee acknowledged the concerns raised by the stakeholder and agreed that shifting the excise duty tax point on mobile phones to the time of activation would increase compliance challenges, delay revenue collection from the point of importation to the point of sale, and create uncertainty for consumers who may unknowingly purchase devices on which excise duty has not been paid. The Committee further observed that the proposal could undermine efficient tax administration and negatively affect the affordability and accessibility of mobile phones. In addition, the proposal requires time for research on the policy development and consultation with affected stakeholders. Therefore, the committee recommended deletion of the proposal.

Clauses 51, 53, 54 and 55

2265. Amend the Tax Procedures Act to include connectivity failure, cyber incidents, KRA system downtime and third-party platform outages as grounds for relief because it creates compliance risk for digital businesses and SMEs when failures arise from KRA system downtime, connectivity failures or cyber incidents.

Committee Observation

The Committee noted the concern of the stakeholder but did not agree with the proposal to amend to include new criteria for waiver as it goes beyond the scope under section 89 of the Act. The Committee acknowledged the concerns raised by the stakeholder but noted that the amendment under clause 54 broadens the provision to ensure that all current and future fees under Part III are automatically subject to the same enforcement provisions without requiring annual legislative amendments.

Clause 55 (a) (ii) (b) (ii)

2266. Amend the proposal to assess VAT, IDF, RDL, excise and customs duty and the expected net retail price impact, because a whole tax package assessment is important to ensure affordability.

Committee Observation

The committee noted the concerns of the stakeholder and resolved to delete the proposal in the Bill

3.4.7 DEFENCE FORCES WELFARE SERVICES (DEFWES)

New Proposal – VAT Act

Section 17

2267. Insert a new sub-section (7) and (8) after subsection (17)(6) to read as follows:-

7. Notwithstanding subsection (6), a registered person shall be entitled to deduct input tax incurred in respect of supplies made to the Kenya Defence Forces, Defence Forces Welfare Services, the National Intelligence Service and the National Police Service, where such supplies are exempt under Paragraphs 57 and 101 of Section A of Part I of the First Schedule:

Provided that—

(a) the supplies are supported by such documentation as the Commissioner may prescribe; and

(b) the deduction shall be limited to input tax directly attributable to those supplies.

8. For the avoidance of doubt, input tax deducted under subsection (7) shall not be subject to apportionment under subsection (5) where it is wholly attributable to the supplies specified therein.

2268. The stakeholder submitted that this would ensure that public funds are not eroded by unrecoverable taxes.

Committee Observation

The Committee noted the proposal by the stakeholder.

Section 17(5)

2269. Amend the VAT Act by inserting the following new paragraph immediately after paragraph 5(d)

(e) input tax attributable to supplies made to the Kenya Defence Forces, Defence Forces Welfare Services, the National Intelligence Service and the National Police Service, where such supplies are specified as exempt under Paragraphs 57 and 101 of Section A of Part I of the First Schedule.

2270. The stakeholder submitted that this aligns statutory framework with the intended effect of VAT exemption.

Committee Observation

The Committee noted the proposal by the stakeholder.

New Proposal – Excise Duty Act

Second Schedule – Part A

Paragraph 11

2271. Insert a new paragraph immediately after paragraph (b): - NOT IN THE ACT

(c)excise duty paid on inputs used in the manufacture of excisable goods that are exempt under Paragraph 12 of Part A of the Second Schedule, to the extent that such inputs are directly attributable to the manufacture of those goods.

2272. DEFWES submitted that this proposal removes excise duty that would otherwise be incorporated into the cost of Government procurement.

Committee Observation

The Committee noted the proposal by the stakeholder.

3.4.8 MINISTRY OF LANDS

Clause 31(a)(vii)

2273. Delete the proposal and preserve VAT exemption on goods for affordable housing construction. The Ministry of Lands cited that building materials are up to 60% of construction costs. Withdrawal of the exempt VAT status would raise unit prices by an estimated 8% to 20%, pricing out the target households.

Committee Observation

The Committee noted the concern raised by the stakeholder and noted that the exemptions were made to support the government's projects under the BETA. Therefore, the Committee recommended deletion of the proposal.

New Proposal – Income Tax Act

First Schedule – Part I – Income Accrued in, derived from or received in Kenya which is Exempt from Tax.

2274. Insert new paragraphs in the First Schedule to exempt the income of the Affordable Housing Fund and the income of the Affordable Housing Board from income tax. The Ministry of Lands submitted that the Fund and Board administer ring-fenced public resources for a constitutional purpose. Taxing their income recycles money meant for housing back to the exchequer, reducing units delivered.

Committee Observation

The Committee noted that the developed houses are now being sold and recommends that the Affordable Housing Board ensures that the Affordable Housing Fund be self-sustaining

New Proposal – Value Added Tax

Section 17

2275. Amend the Act to allow for the recovery of input VAT on affordable housing construction. The stakeholder submitted that developers cannot recover input VAT since sale of housing is an exempt supply. This leaves the unrecovered input VAT as a cost that is passed on to homebuyers.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

First Schedule – Part II – Services

2276. Insert a new paragraph to provide that the supply of services for the direct and exclusive use in affordable housing construction under an approved affordable housing scheme shall be VAT exempt. The stakeholder submitted that even with goods relieved, the Affordable Housing Program bears 16% irrecoverable VAT on contractor and professional services, which cascades into unit prices. Relieving services closes this loophole and harmonizes the treatment of construction inputs.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

New Proposal – Tax Procedures Act

2277. Insert a new Section 39B to empower the Commissioner, where he is the collector of a fee, levy or charge under any other written law, to recover unremitted or unpaid amounts as a civil debt due to the Government as if they were unpaid tax.

2278. The Ministry of Lands submitted that the Auditor-General found a legal gap that allows evasion of the Housing Levy. KRA collects the levy but has no enforcement mandate under the Act. The ministry submitted that the proposed amendment closes the gap and protects compliant contributors.

Committee Observation

The Committee noted the proposal by the stakeholder and undertook to consider it in future legislation.

3.4.9 CENTRAL BANK OF KENYA

Clause 10

2279. CBK supports the legislative amendment, which will allow the members of staff of CBK to benefit from the mortgage relief accorded to borrowers under Schedule IV of the Income Tax Act, an incentive they have not enjoyed compared to staff of other institutions granted mortgages by commercial banks. The proposed amendment may be varied to include other institutions that provide in-house mortgage schemes for the benefit of their employees and are not listed under the Fourth Schedule of the Income Tax Act.

3.5 PUBLIC HEARINGS IN THE COUNTIES

3.5.1 BACKGROUND INFORMATION

2280. In accordance with Article 118(b) of the Constitution and Standing Order 127(3) and 3(A) of the National Assembly Standing Orders, the Committee vide an advertisement dated 2026 (Annexure 4) invited the public to submit views by way of public hearings in thirteen (13) counties.

2281. The thirteen counties were: Vihiga, Kiambu, Wajir, Siaya, Makueni, Nairobi, Nyamira, Taita Taveta, Turkana, Bomet, Tana River, Kilifi and Mombasa Counties.

3.5.2 PUBLIC HEARINGS HELD IN THE COUNTIES

2282. During the public hearings exercise, members of the Public were sensitized on the Bill and given an opportunity to engage in public discussion by making oral submissions on the Bill. They submitted as follows:

VIHIGA COUNTY

2283. The Committee engaged residents of Vihiga County on 2nd June 2026 at Praise Centre Church, Mbale. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

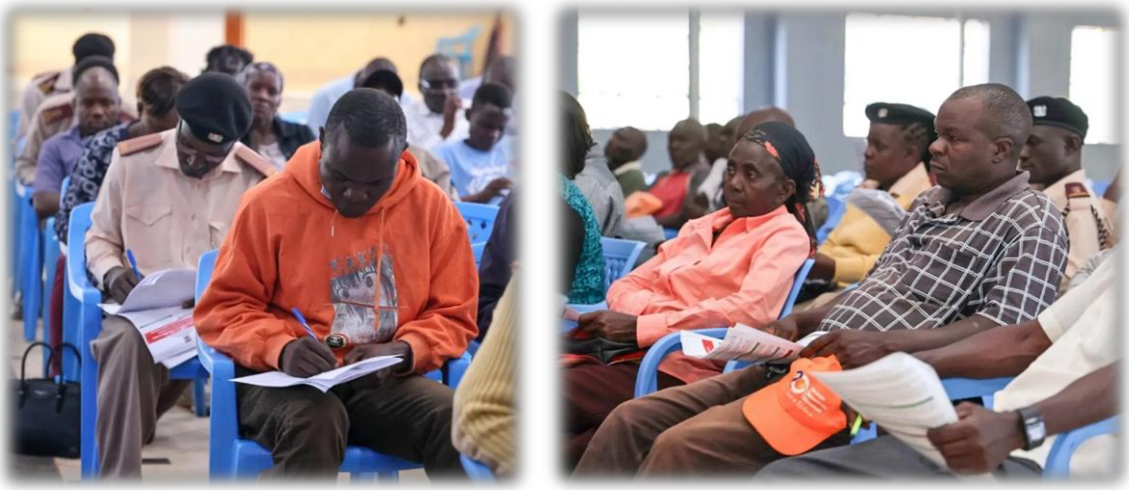


Figure 1: Public Participation in Vihiga County

2284. Various participants supported some provisions of the Bill by noting as follows:

(a) That exempting from VAT inputs and raw materials locally purchased or imported for the manufacture of animal feed, the transportation of sugarcane from farms to milling factories, and inputs and raw materials locally purchased or imported for the manufacture of pharmaceutical products would cushion consumers from the rising cost of these products ensuring accessibility for the ordinary *mwananchi*.

2285. On the contrary, other residents submitted proposals to amend the Bill as follows:

(a) Deletion of the proposed taxation on winnings from betting because the youth, who largely face unemployment, heavily rely on earnings from such winnings. Furthermore, the proposal would discourage both local and foreign investment in the betting and gaming industry and would ultimately result in revenue loss.

(b) Amendment of clauses 18,19, 42, 48, 50 and 51 to require KRA to conduct regular training and awareness programmes on the procedural requirements and manner of filing tax returns through the e-tax system to the common mwananchi particularly those in rural areas and informal sectors who may not be conversant with digital tax compliance platforms.

(c) Amendment of clause 24 to require that a certain percentage of the tax obtained from profits repatriated outside Kenya by mining and petroleum

companies operating in the country benefit the local communities from the mining regions derived.

(d) Deletion of clause 29(a) requiring all suppliers, registered or not, to issue invoices because it could unfairly burden small businesses in rural areas where it is difficult to generate invoices due to limited access to the necessary technology. In the alternative, participants proposed amending the clause to require KRA to give small businesses enough time and support to comply before implementation.

(e) Deletion of the VAT-exemption on scrap metal as it may serve as a deterrent to increased theft of privately-owned metallic property such metallic gates and motor vehicle parts causing economic loss to ordinary citizens.

(f) Delete the proposal seeking to impose VAT on digital and platform-based financial services as it would result in increased charges for money transfer services and as such affecting the common mwananchi and low-income users of digital and platform-based financial services.

(g) Deletion of clause 31(b)(ii) because it could unfairly disadvantage upcoming tour operators yet to be registered thereby discouraging youth entrepreneurship.

(h) Deletion of clauses 34 and 35 because an increase in excise duty on mobile phones would result in increased purchase prices hindering digital inclusion and discouraging youth entrepreneurship who largely depend on smartphones for their livelihoods and business operations.

(i) Amendment of clause 42 to expressly provide for compliance with the Data Protection Act to ensure adherence by the Commissioner to the constitutional right to privacy.

(j) Amendment of clause 43 to extend the scope of the tax amnesty on outstanding tax liabilities and waiver of penalties to cover a period of five years back for small and micro enterprises including hair salons, barbershops and youth-owned businesses to enable such enterprises to regularize their tax affairs and fully participate in the formal economy without being overwhelmed by accumulated historical tax obligations.

2286. Some participants also submitted new proposals to the Bill as follows:

(a) Amendment of the relevant tax laws to exempt the youth, first-time job seekers and bodaboda saccos for an initial period to enable them to establish themselves economically and build sustainable livelihoods.

(b) Amendment of all relevant tax laws to reduce taxes on fuel for an overall reduced price of essential items in prevailing high cost of living and inflation.

(c) Amendment of the VAT Act to exempt medication and all other health-related goods and services from VAT to make healthcare services affordable and accessible to all Kenyans.

KIAMBU COUNTY

2287. The Committee engaged residents of Kiambu County on 2nd June 2026 at Kiambu National Polytechnic (KINAP), Kiambu. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 2: Public Participation in Kiambu County

2288. Participants expressed their support for some provisions of the Bill, notably the proposal to reduce the rate of tax for non-resident petroleum contractors from 37.5% to 30%. They noted that this is a welcome step towards making Kenya's extractive sector more competitive.

2289. Other residents submitted proposals to amend the Bill as follows:

(a) Amendment of clause 2(c) to exempt micro, small and medium enterprises from the withholding tax proposed on royalties.
(b) Deletion of the proposal in clause 7 that seeks to include winnings as income liable for taxation under the Income Tax Act. The residents submitted that taxing betting winnings represents a case of the Government seeking to tax where it did not take a strategic risk. Further, income used to place a bet is already taxed, and the proposal would therefore bring forth double taxation of income.
(c) Amendment of clause 24 to further reduce the rate of tax for resident petroleum contractors to ensure parity with non-residents who would reap an advantage in the same market conditions.
(d) Deletion of clause 26 because it may increase the cost of phones acquired through hire purchase plans, which are a primary mechanism through which the youth and low-income households access mobile phones.

(e) Deletion of clause 29 because the mandatory invoicing requirement seeks to introduce a tax compliance burden on small traders who may not have the facilities and know-how of generating an invoice for supplies made.
(f) Deletion of the proposal in clause 31(a)(ix) paragraph 160 and retention of zero rating for inputs and raw materials purchased or imported for the manufacture of animal feeds.
(g) Amendment of clause 31(b) to provide that M-Pesa transactions will not be subjected to the imposition of VAT on digital and platform-based financial services, as the proposal would increase the cost of mobile money transactions adversely affecting the common *mwananchi*.
(h) Amendment of clauses 34 and 35 to clearly establish what 'the time of the activation of the phone' means in accordance with the Excise Duty Act, and to expressly provide who shall bear the responsibility of paying the excise duty applicable.
(i) Deletion of clause 45 as it has the potential of invading taxpayers' privacy.

WAJIR COUNTY

2290. The Committee engaged the residents of Wajir County on 2nd June 2026 at the ICT Hall in Wajir town. The public was sensitized on the clauses of the bill and thereafter allowed to give their views. They submitted as follows:

Figure 3: Public Participation in Wajir County

2291. Various participants supported provisions of the Bill by noting as follows:
(a) That Wajir County has been left behind in terms of development and infrastructure, and called for the Committee to ensure such matters are addressed in the Bill.
(b) That the Bill should not increase the cost of living for Kenyans and that the legislation should ensure that there is prudent utilization of public funds and equitable distribution of development projects across the country.

On the contrary, other residents submitted proposals to amend the Bill as follows:

(a) Delete clauses 18 and 19 to allow convenient time for Kenyans to file their returns because four months can create inconveniences and issues, such as litigations, that can be avoided by retaining the provision as it is.
(b) Delete clause 35 on taxation at the point of mobile phone activation and clause 36 on increasing excise duty tax to 25% that would make mobile phones expensive.

SIAYA COUNTY

2292. The Committee engaged residents of Siaya County on 3rd June 2026 at Siaya Institute of Technology, Siaya. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 4: Public Participation in Siaya County

2293. The participants supported the Bill to the extent that it contains proposals exempting inputs or raw material locally purchased or imported for the manufacture of animal feeds from VAT. In addition, they proposed that the proposal be amended further to include fertilizer as a VAT-exempt item noting that the majority of low-income households in Siaya County and the country rely on small-scale farming as their primary source of livelihood.

2294. Additionally, the participants appreciated the proposal to exempt from tax benefits paid due to death. They, however, urged the Government to simplify the process of dependants accessing the benefits.

2295. Whilst recommending amendments to the Bill, other participants submitted as follows:

(a) Delete or amend clauses 7(o), 17(a)(iii)(w), 17(b)(q) and 22(b)(ii) to lower taxation on betting winnings because the youth heavily rely on earnings from such winnings as a source of livelihood. Alternatively, channel all proceeds from betting taxation to sports development programmes at the county level to ensure that revenue derived from the youth is reinvested in youth-centred programmes.
(b) Reconsider the proposal seeking to impose 15% tax on repatriated income for the mining sector because it could lead to investor flight. Alternatively, amend the proposal to provide for the gradual imposition of the proposed tax over a reasonable transition period for certainty and predictability.
(c) Delete clause 29(a) or amend to exempt small and micro enterprises operating in rural areas from the invoicing requirement because such businesses face significant challenges in generating invoices due to limited access to digital technology and the requisite technical capacity. Furthermore, require KRA to conduct training and awareness creation on otherwise complex tax procedures for the common *mwananchi*.
(d) Amend clause 31(a)(ix) to include VAT exemptions to youth-led agribusinesses to encourage youth entrepreneurship.
(e) Reconsider clause 31(a)(ix) 169 noting that the *mitumba* business provides income for many Kenyans and taking into account the marginal profits made by *mitumba* sellers.
(f) Delete Clause 31(b)(i) because an increase in digital and platform-based financial services would adversely affect the common *mwananchi*.
(g) Delete clause 36(a)(xiv) to (xxxiii) because it could result in an increased cost of sourcing goods within the EAC bloc.
(h) Amend clause 40 to exempt low-income Kenyans who are required to obtain KRA Personal Identification Numbers solely for purposes of minimal or one-off transactions, such as the transfer or inheritance of land from any tax obligations arising therefrom. This is because requiring such persons who have no regular or meaningful taxable income to comply with full tax registration and filing obligations places an undue administrative and financial burden on them and is inconsistent with the principle of equity in taxation.
(i) Delete clause 45 because of a fear of abuse and potential infringement on *mwananchi's* right to privacy as provided in the Constitution and Data Protection Act.

2296. The participants further made submissions relating to new proposals not contained in the Bill. They proposed as follows:

(a) Amend all the relevant tax laws to exempt phones of below KES 15,000 from tax for cheaper access by students who heavily rely on smartphones for education and access to government services among other essential services.

(b) Amend the relevant tax laws to expressly exclude PWD assistive devices from all taxation as a standalone provision to ensure that PWDs are not subjected to an additional financial burden in accessing essential devices critical to their dignity, independence and full participation in society.
(c) Amend the Income Tax Act to lower the PAYE bands to cushion salaried Kenyans from the prevailing high cost of living, rising inflation and increased burden of statutory deductions. Furthermore, this would enable workers to have more disposable income to meet their day-to-day needs.

MAKUENI COUNTY

2297. The Committee engaged residents of Makueni County on 3rd June 2026 at Wote Green Public Park, Wote. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 5: Public Participation in Makueni County

2298. Some participants expressed their support for provisions of the Bill, noting as follows:

(a) That the proposal in clause 20(a) to exempt from taxation benefits paid due to the death of an employee is a welcome relief that would alleviate the financial obligations borne by dependants of deceased persons. The residents, however, urged the Government to simplify the process through which dependants access the benefits due to them.

2299. Other residents submitted proposals to amend the Bill as follows:

(a) Deletion of clauses 7(o), 17(a)(iii)(w), 17(b)(q) and 22(b)(ii) that seek to impose tax on winnings from betting. The residents submitted that the youth, who

largely face unemployment, heavily rely on earnings from such winnings as a source of livelihood. Furthermore, income used to place a bet has already been subjected to tax, and the proposal would therefore bring forth double taxation of income. The residents also noted that the proposal would discourage both local and foreign investment in the betting and gaming industry and could ultimately result in revenue loss.

(b) Amendment of clauses 18 and 19 to provide for a reasonable compliance period for young and emerging businesses that are yet to gain momentum, and to require KRA to conduct regular training and awareness programmes on the procedural requirements for filing tax returns through the e-tax system, particularly for *mwananchi* in rural areas and the informal sector who may not be conversant with digital tax compliance platforms.

(c) Amendment of clause 24 to require that a certain percentage of tax obtained from profits repatriated outside Kenya by mining and petroleum companies benefit the local communities from the regions in which mining activities occur. The residents further proposed that the rate of tax for resident petroleum contractors be reduced to ensure parity with the rate proposed for non-residents, who would otherwise reap an advantage under the same market conditions.

(d) Deletion of clause 29(a) requiring all suppliers, registered or not, to issue invoices, because it could unfairly burden small businesses and traders, including *Mama Mboga*, operating in rural areas and the informal economy where it is difficult to generate invoices due to limited access to technology. In the alternative, the residents proposed that KRA be required to provide small businesses with adequate time, training and support to comply before implementation.

(e) Deletion of the proposal in clause 31(a)(ix) paragraph 169 to the extent that it excludes *mitumba* from VAT-exempt status upon importation. The residents submitted that the *mitumba* trade provides affordable clothing, which is a basic need, to millions of Kenyans and that many households depend on the *mitumba* value chain to earn a living.

(f) Deletion of clause 31(b)(i) seeking to impose VAT on digital and platform-based financial services. The residents submitted that this would increase the cost of mobile money transactions, discourage the uptake and use of digital financial services, and adversely affect the common *mwananchi* at a time when digital financial inclusion has become a critical enabler of economic participation for many Kenyans.

(g) Deletion of clauses 34 and 35 or, in the alternative, amendment to expressly provide that the excise duty payable upon activation of a mobile phone shall be borne by the manufacturer or importer and not the consumer. The residents noted that an increase in excise duty on mobile phones would result in increased purchase prices, hinder digital inclusion and discourage youth

entrepreneurship, as the youth largely depend on smartphones for their livelihoods and business operations.

(h) Deletion of clause 45 as it has the potential of infringing on taxpayers' right to privacy as guaranteed under the Constitution and the Data Protection Act, 2019. The residents also raised concern that the proposal would permit the Commissioner to issue agency notices even while a taxpayer's appeal is actively pending, thereby undermining the right to a fair hearing.

2300. The participants further made new proposals to the Bill as follows:

(a) Amendment of the relevant tax laws to exempt phones priced below KES 15,000 from tax to enable cheaper access for students and low-income households who heavily rely on smartphones for education and access to government services.

(b) Amendment of the relevant tax laws to expressly exclude assistive devices for persons with disabilities (PWDs) from all taxation as a standalone provision, to ensure that PWDs are not subjected to an additional financial burden in accessing devices that are critical to their dignity, independence and full participation in society.

(c) Amendment of all relevant tax laws to reduce taxes on fuel in recognition of the prevailing high cost of living and rising inflation, which has placed considerable pressure on the livelihoods of ordinary Kenyans.

(d) Amendment of all relevant tax laws to reduce the overall tax burden on Kenyans. The residents noted that the Government could explore alternative revenue mobilisation strategies that do not disproportionately burden low-income households already facing economic hardship.

2301. The participants also submitted general concerns as follows:

(a) There is need for the National Assembly to consider a longer public participation duration for complex Bills such as the Finance Bill, 2026, to enable the common *mwananchi* to adequately understand the contents of the Bill prior to giving their views.

(b) The Government should consider implementing measures to ensure the prudent and accountable use of public resources, noting that it is disheartening to *mwananchi* that the Government seeks to impose additional taxes at a time when revenue leakages remain unaddressed.

NAIROBI COUNTY

2302. The Committee engaged the residents of Nairobi County on 3rd June 2026 at the College of Insurance in South C, Nairobi. The public was sensitized on the bill and thereafter allowed to air their views. They submitted as follows:

Figure 6: Public Participation in Nairobi County

2303. The majority of the residents supported the bill but raised a few concerns about the excise duty imposed on gambling, suggesting that the government should impose more taxes to regulate the gambling menace in Nairobi, affecting mostly the youth. They advocated for the prudent use of public funds that emanate from passing the Bill, indicating that the proposals in the Bill are welcomed, but the funds should benefit Kenyans. The residents backed the exemption of 16% on VAT charged on electric bicycles and the supply of lithium-ion and solar batteries, but insisted that other batteries and non-electric motorcycles should also be exempted.

2304. Additionally, the participants suggested that the proposal to increase the duty-free allowance for returning travellers to the country should be reviewed to ensure everyone is adequately taxed for the goods they bring to the country, and further, the government, through the Kenyan Ambassadors, should seek job opportunities abroad for Kenyan Youth to increase the tax base. The residents urged the Committee to introduce wealth taxation for Kenyans with a net worth of more than Kshs. 120 million to enhance domestic revenue generation. Further, residents raised concerns that PWDs cannot afford to buy special motorcycles because they are very expensive and therefore call for price reductions.

2305. Some residents submitted proposals to amend the Bill as follows:

(a) Amend clause 36 (c) to increase excise duty taxes for gaming and betting activities to make gambling expensive for Nairobi youth, for it has become a menace and contributed to laziness among the youth.

(b) Amend clause 32 (a) to move VAT charged on motorcycles to be exempt to make them more affordable to residents.

(c) Amend clause 31 (a) to increase VAT on assets and goods brought into the country by passengers returning from abroad, exploiting a tax loophole that can generate revenue for the country

(d) Delete clause 20 on CGT REITs for simplicity

(e) Delete clause 35 on shift in excise duty on mobile phones from importation to activation point to revert to normal, avoiding any price increase adjustments and tax complexities for residents.
(f) Delete clauses 18 and 19 on filing returns to allow for sufficient time for filing returns for both individuals and small businesses because the proposed provision may lead to litigation, inappropriate tax reporting and possibly incidents of failure to declare taxes.
(g) Delete clause 2 (b) on interchange fees and merchant service fees arising from transactions that use a card as a means of payment, because it will make card payments expensive for citizens.

2306. Some participants also submitted new proposals to the Bill as follows:
(a) Introduce a new provision in the Income Tax Act Cap 470, to introduce wealth taxation for Kenyans with a net worth of more than Kshs. 120 million for the purposes of generating more revenue for the country.
(b) Delete the provision on clause 46 because it was added just recently in the previous finance bill, and expand the definition of future tax liabilities on tax refunds on clause 47, which might create tax ambiguity.

NYAMIRA COUNTY

2307. The Committee engaged residents of Nyamira County on 4th June 2026 at West Mugirango NGCDF Hall, Nyamira. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 7: Public Participation in Nyamira County

2308. The participants expressed their support for clause 31(a)(ix)162 exempting from VAT the transportation of sugarcane from farms to milling factories because it would improve the viability of sugarcane farming and supporting the livelihoods of small household farmers.

2309. A majority of the participants expressed their reservations on the Bill because, in their view, it imposes additional taxes which are burdensome to the common *mwananchi*. They, therefore, proposed various amendments to cushion Kenyans from the adverse effects of the proposed tax measures as follows:

(a) Deletion of proposed taxation on betting winnings because the youth, who largely face unemployment, heavily rely on earnings from such winnings. Furthermore, the proposal would discourage both local and foreign investment in the betting and gaming industry and would ultimately result in revenue loss. On the contrary, other residents were of the view that the Bill should be amended to increase taxes on gambling to act as a deterrence from excessive and addictive betting behaviour that has resulted in financial ruin of the youth.

(b) Amend clause 24(b)(i) to lower the proposed corporate tax for non-resident petroleum contractors from 37.5% to 20% to alleviate consumers from a potential upsurge in the final cost of petroleum products.

(c) Delete Clause 31(a)(ix)169 to the extent that it excludes *mitumba* from VAT-exempt status upon importation to prevent an increase in the cost of clothes to the final consumer. Furthermore, many Kenyan households rely on *mitumba* sale as a source of income and the proposal could make it difficult for such households to earn a living.

(d) Delete clause 31(b)(i) because it would increase digital financial services charges thereby discouraging their uptake and use at a time when digital financial inclusion has become a critical enable of economic participation for many Kenyans who heavily rely on these platforms as their primary means of conducting transactions.

(e) Delete clauses 34 and 35 or amend them to expressly provide that the tax to be paid upon activation should be borne by the phone manufacturer or importer and not the consumer.

2310. In addition to the specific amendments, the participants further submitted that there is need for the Government to lengthen the period of public hearings for complex Bills to enable the common *mwananchi* to better understand the contents of the Bills for informed decision making.

BOMET COUNTY

2311. The Committee engaged residents of Bomet County on 5th June 2026 at St. Bakhita Youth Training Hall, Bomet. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 8: Public Participation in Bomet County

2312. A majority of the participants expressed their support for the Bill noting as follows:

(a) The Bill contains provisions such as clause 20(a) which would alleviate the existing financial obligations borne by the dependants of deceased persons in accessing the benefits due to them.

2313. While supporting the Bill, the participants proposed as follows:

(a) Delete the proposed taxation on betting winnings because it is misplaced and is unlikely to achieve the stated objective of deterring participation in betting. On the contrary, it would only disproportionately burden unemployed youth who depend on income from betting winnings and discourage investment by betting companies such as Sportpesa which have been instrumental in promoting sports activities for Kenyans. Alternatively, amend the proposals to delete the 5% excise duty rate and introduce WHT tax bands on betting winnings as follows:

"Below KES 10,000	-	*0%;*
Between KES 10,000 and 100,000	-	*10%; and*
Above KES 100,000	-	*20%."*

(b) Amend clause 24(a) the proposal to increase the tax rate to 37.5% similar to the proposed corporate tax for petroleum contractors to increase Government revenue. In addition, amend the proposal further to extend the taxation to multinational companies operating in Kenya and making huge profits from the processing of agricultural produce such as tea. This would broaden the tax base and enable the Government to raise more revenue.

(c) Delete clause 31(a)(i) because it could be abused by unscrupulous individuals to introduce commercial goods into the country tax-free under the guide of

personal effects thereby negatively impacting local businesses. Alternatively, amend the proposal to reduce the threshold from USD 2,000 to USD 1,000.

(d) Amend the clause 31(a)(ix) to include all assistive devices and products for persons with disabilities including sunscreen for persons with albinism and wheelchairs, among others, to be VAT-exempt to promote inclusivity and reduce the financial burden on PWDs. Additionally, amend the clause 31(a) to include agricultural inputs such as fertilizer and farming equipment as VAT-exempt to reduce the overall cost of production.

(e) Amend clause 31(a)(ix)166 to also VAT-exempt the installation of solar and lithium-ion batteries to enable persons living in rural areas without electricity to afford clean energy.

(f) Delete clause 31(b)(i) to avoid increasing the cost of digital financial services to the common *mwananchi*.

2314. The participants further submitted, generally, as follows:

(a) Amend all the relevant tax laws to reduce the overall tax burden on Kenyans in recognition of the prevailing economic hardships and the financial and mental stress facing low-income households. The Government could explore alternative revenue mobilisation strategies that do not disproportionately burden ordinary citizens.

(b) The Government should consider implementing measures to ensure prudent use of the resources collected from its citizens.

TAITA TAVETA COUNTY

2315. The Committee engaged residents of Taita Taveta County on 5th June 2026 at Mwatate NG-CDF Hall, Mwatate. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 9: Public Participation in Taita Taveta

2316. The participants submitted proposals to amend the Bill as follows:

(a) Review downwards the rental tax payable by non-residents under clause 4. The residents argued that while non-residents are not Kenyans, the houses they build are occupied by Kenyans who will ultimately bear the burden of elevated rents.
(b) Deletion of the proposals in clauses 18 and 19 because the four-month period for filing taxes will be difficult to comply with for young people whose businesses are yet to gain momentum.
(c) Deletion or amendment of the proposed new paragraph (y) in clause 22(b)(ii) to provide that the applicable withholding tax rate for betting winnings shall be ten percent (10%), noting that the youth heavily rely on such earnings as a source of livelihood.
(d) Deletion of the proposal in clause 29 as it introduces a compliance difficulty for small traders such as *Mama Mboga* who lack the facilities to generate invoices for supplies made.
(e) Deletion of the proposal in clause 31(a)(ix) paragraph 163 because it may lead to increased cost of phones, which are essential for digital inclusion.
(f) Deletion of the proposal in clause 31(a)(ix) paragraph 169 to make worn clothing (*mitumba*) VAT-exempt upon importation as this will lead to increased cost of clothes, which are a basic need. The residents further submitted that many citizens depend on the *mitumba* value chain to earn a living.
(g) Deletion of the proposal in clause 34 as it will make it difficult for citizens to comply with the payment of excise duty at activation. The residents further submitted that it is difficult to determine whether the seller of the phone will have reduced the price to account for the excise duty that a buyer will be expected to pay.
(h) Deletion or amendment of clause 36(a)(i) to provide that the excise duty on imported cellular phones shall not apply for phones that cost Kshs 15,000 and below, to protect access to affordable handsets for students and low-income households.
(i) Deletion of clause 45 in its entirety as it would allow the Commissioner to issue agency notices even while an appeal is actively pending, thereby undermining the right to a fair hearing.

2317. The participants also made new proposals to the Bill as follows:
(a) Amendment of the Value Added Tax Act, section 5(2), to provide that the applicable rate of VAT for raw materials and inputs of any agricultural process or product is 8%, in order to lower the cost of food production and support small-scale farmers.

TURKANA COUNTY

2318. The Committee engaged the residents of Turkana County on 5th June 2026 at the Turkana University in Lodwar town. The public were sensitized on the bill and thereafter allowed to air their views. They submitted as follows:

Figure 10: Public Participation in Turkana County

2319. The residents of Turkana County noted that the Bill contained both positive and negative proposals that would have significant implications for ordinary citizens and the country's economy. While some residents supported the Bill for its potential to increase government revenue, strengthen financial institutions, and promote long-term economic stability, many expressed concerns over provisions that could increase the cost of living and place additional burdens on low-income households.

2320. The residents noted that the proposed taxes on mobile phones, digital services, betting, motorcycles, and other essential goods would disproportionately affect ordinary Kenyans, particularly youth, boda boda operators, small traders, and mama mboga businesses. They observed that higher taxes on digital services and mobile phones could undermine financial inclusion and slow the growth of the digital economy. Notably, the youth in the county requested the Committee to ensure the unemployed youth and small businesses are not affected by the provisions in the Finance Bill.

2321. Other participants submitted their proposed amendments to the Bill, including:

(a) Amend clause 36 (c) to reduce the excise duty taxes for gaming and betting activities to support Turkana youth who are unemployed, and additionally, it has become a source of income for Turkana residents.

(b) Amend clause 32 (a) to move inputs for the manufacturer of animal feeds from exempt to zero-rated to become affordable for pastoralist communities in the county.

TANA RIVER COUNTY

2322. The Committee engaged residents of Tana River County on 6th June 2026 at County Hall, Tana River. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 11: Public Participation in Tana River County

2323. The participants submitted proposals to amend the Bill as follows:

(a) Amendment of clause 24(b) to reduce the proposed corporate tax for non-resident petroleum contractors from *thirty percent* to *twenty percent* to alleviate consumers from a potential upsurge in the final cost of petroleum products.

(b) Amendment of clause 24(b) to increase the proposed tax rate for income repatriated by a non-resident contractor to 40%, noting that non-residents should not be subjected to the current 15% tax rate which is significantly lower than the 30% rate applicable to resident taxpayers.

2324. The participants also submitted general concerns as follows:

(a) The residents of Tana River County questioned the integrity of the public participation process, noting that they were unable to contribute effectively to the Finance Bill, 2026 because the prerequisite documents were not presented to them at least 21 days prior to the hearing.

(b) All Members of Parliament must sensitize their electorate on all Bills presented in Parliament, especially those with far-reaching impact such as the Finance Bill. The residents submitted that this is well within the constitutional role of MPs in representing and legislating on behalf of their constituents.

(c) The Finance Bill should be published in both English and Kiswahili, given that both are national and official languages under the Constitution. The residents submitted that a Bill published only in English deters some Kenyans

from effectively engaging with its contents, particularly in areas where Kiswahili is the dominant language.

(d) The Finance Bill should be considered on its own and not concurrently with other Bills. The residents submitted that it is humanly impossible for ordinary citizens, who lack prior training in law or legislation, to comprehend several Bills at once within the time frame provided for deliberations.

(e) The Committee should provide a report on the value gained from different tax proposals in each Finance Act enacted by Parliament after the end of each financial year. The residents submitted that unless the value or loss is documented, it is difficult to defend the proposals presented to the public during the processing of a Finance Bill.

MOMBASA COUNTY

2325. The Committee engaged the residents of Mombasa County on 8th June 2026 at the Tononoka Hall in Mombasa town. The public was sensitized to the bill and thereafter allowed to give their views. They submitted as follows:

Figure 12: Public Participation in Mombasa County

2326. The residents shared mixed views on the bill, citing new provisions that can prove costly for Kenyans while supporting amendments that reduce the cost of living for Kenyans. They opposed the proposal to impose excise duty on mobile phones upon activation, calling for retaining the previous provision at the point of purchase, with concerns about data privacy and that it would be easier to administer and more transparent to consumers. The Members of Changamwe Elite Community-Based

Organisation proposed VAT exemptions on all mobile money transactions under Ksh. 1,000 and keep digital payments affordable to protect financial inclusion.

2327. Additionally, the residents further called for the amendment of the VAT Act to exempt the importation of recycling and waste processing equipment and inputs used in the construction of recycling facilities. Further, the residents suggested that vital transportation facilities, such as motorcycles, should be zero-rated because they are a major source of income for the residents.

2328. While supporting the Bill, the participants proposed as follows:

(a) Amend the VAT Act to zero-rate staple foods because the cost of producing the products is transferred to consumers, making staple foods expensive.

(b) Amend Clause 32 (b) to exclude all mobile money transactions under Kshs. 1000 from VAT, and keep digital payments affordable, and protect financial inclusion.

(c) Amend Clause 36 (a) (i) to ensure there is tax simplification and no mandatory collection of personal data at activation.

(d) Delete clause 4 and retain 30% withholding tax for tax simplicity

2329. The participants further made submissions relating to new proposals not contained in the Bill. They proposed as follows:

(a) Amend the second Schedule of the VAT Act to exempt recycling equipment, composting systems, waste collection machinery, material recovery systems, and pollution control equipment because the recycling and waste management equipment remains expensive despite existing legal provisions

(b) On Excise Duty Act, delete any clause that proposes amendments to increase the import declaration fee on steel products and reduce semi-finished steel imports, to protect local manufacturing.

KILIFI COUNTY

2330. The Committee engaged residents of Kilifi County on 8th June 2026 at Coast Development Authority Hall, Kilifi. The public was sensitized on the clauses of the Bill and thereafter allowed to give their views on the Bill. They submitted as follows:

Figure 13: Public Participation in Kilifi County

2331. Some participants expressed their support for the Bill noting that some clauses would be beneficial to Kenyans, including:

(a) Clause 31(a)(vi) on increasing the VAT-exempt duty-free allowance that would enable their relatives living abroad to bring them gifts without incurring excessive tax obligations.

2332. Other participants submitted their proposed amendments to the Bill including:

(a) Delete the proposals on increased taxation on betting winnings because they would impose a disproportionate financial burden on the youth who heavily rely on betting winnings as a source of income, particularly in the context of the prevailing high unemployment rates in the country. Furthermore, betting ought not to be regarded solely as a vice as it has contributed to a reduction in crime rates across the county.

(b) Amend clause 24(a) further to expressly require that a portion of the revenue generated from the proposed 15% tax on repatriated profits be ringfenced for the direct benefit of the local communities from which the mining activities occurs.

(c) Delete the proposal seeking to require all suppliers to issue invoices as it may hurt small-scale businesses.

(d) Reconsider VAT-exempting scrap metal in clause 31(a)(ix)159 as it could serve as a deterrent to increased theft of privately-owned metallic property such metallic gates and motor vehicle parts causing economic loss to ordinary citizens.

(e) Delete clause 31(b)(i) as it would discourage the use of digital financial services, drive citizens toward cash-based transactions and increase exposure to theft and other security risks. There is need for the Government to strike a balance between revenue collection objectives and the imperatives of safeguarding societal safety.

(f) Delete clauses 34 and 35 as it would make it harder for the common *mwananchi* to obtain mobile phones thereby undermining digital inclusion.

2333. The participants also submitted, in general, as follows:

(a) There is need for the National Assembly to consider a longer public participation duration for complex Bills such as the Finance Bill, 2026 to enable the common *mwananchi* to adequately understand the Bill prior to giving their views.

(b) There is need for the National Assembly to advocate for the prudent and accountable use of public resources. They expressed concern that it is disheartening to *mwananchi* that the Government seeks to impose additional taxes at a time when revenue leakages remain unaddressed.

(c) Reconsider taxation imposed on low-income households to cushion them against the prevailing economic hardships.

3.5.3 QR CODE AND EMAIL SUMMARY OF PUBLIC VIEWS ON THE FINANCE BILL 2026

Supporting Views

2334. The Committee received several submissions on its online platform (Quick Response (QR) Code and official email addresses). The following were views in support of the bill.

(a) Several participants welcomed the definition clarifications in the Income Tax Act around immovable property, withdrawals, and winnings, noting that cleaner legal language reduces ambiguity and helps both taxpayers and KRA interpret obligations consistently.

(b) Clause 9 was praised for closing loopholes that previously allowed individuals to under-declare income from businesses, rentals, and investments by restricting simplified tax declarations to employees with only emolument income.

(c) Clause 12, which corrects erroneous cross-references in Section 18D of the Income Tax Act, was supported as a technical but important fix that improves legal certainty and prevents disputes arising from drafting inconsistencies.

(d) Clause 28, extending the VAT refund window from two to three years, was broadly celebrated as a pro-citizen measure giving businesses adequate time to reconcile discrepancies, correct accidental double-payments, and file legitimate claims before statutory timelines lock them out.

(e) Clause 8, which prevents double taxation of trust income by ensuring that once a trustee pays tax beneficiaries are not taxed again on the same income, was commended as fair and administratively sound.

(f) Clause 39 on reinstatement of deregistered taxpayers with their original PIN was supported as a measure that maintains the integrity of tax records and prevents duplication of tax identities.
(g) Clause 42, empowering the Commissioner to issue assessments based on data from multiple verified sources, was seen as a data-driven modernisation that reduces under-declaration of income.
(h) Clause 48, enabling the Commissioner to generate pre-populated tax returns, was welcomed as easing the compliance burden for ordinary taxpayers unfamiliar with the filing system.
(i) Several respondents expressed conditional support for VAT exemptions on essentials such as motorcycles, electric bicycles, solar batteries, dialysers, animal feed inputs, and pharmaceutical raw materials, viewing these as meaningful relief for low-income households and the healthcare sector.

Proposed Amendments

2335. Some Members of the public proposed amendments to the Bill as follows;

(a) On Clause 2, respondents recommended that Parliament carve out exemptions or introduce thresholds to protect small merchants, boda boda operators, and ordinary consumers from the expanded definitions of "management or professional fee" and "royalty" that now cover interchange fees, merchant service fees, and payment processing systems. The concern was that fintech companies and banks would pass these costs downstream, raising the cost of every digital transaction.
(b) Participants urged that only large commercial payment networks be targeted under Clause 2, not micro-transactions and small business payments, to avoid stifling Kenya's position as a continental leader in mobile money.
(c) On Clause 3, respondents called for the removal or revision of the three-year minimum service requirement and the 31% cap on gratuity contributions, arguing these arbitrarily penalise contract workers, retrenched employees, and senior staff. Pro-rata protection for employees exiting due to redundancy, disability, or death was proposed.
(d) On Clauses 18 and 19, many respondents recommended retaining the original six-month tax return filing deadline or providing a transition period, warning that the reduced four-month window exposes SMEs and individuals to rushed filings, errors, and penalties. Some cited Article 47 of the Constitution on the Right to Fair Administrative Action.
(e) On Clause 38, participants supported regulating Virtual Asset Service Providers in principle but called for clearer privacy protections, a precise definition of "reportable users," and penalties proportional to the size of the service provider.

Criminal liability was recommended only for deliberate fraud, not procedural omissions.

(f) On Clause 27, respondents accepted that an adjustment mechanism for input VAT may be necessary when goods shift from taxable to exempt status but strongly opposed the immediate repayment requirement on inventory purchased in good faith. A transitional relief period was proposed to prevent cash-flow shocks being passed on to consumers.

Views Against the Bill

2336. Other members of the public had a different view of the Bill.

(a) The most prominent concern across submissions was the cost of living, with participants arguing that the cumulative effect of new withholding taxes, expanded excise duties, broader tax base definitions, and reduced VAT exemptions will drive up the prices of goods and services in an already strained economy.

(b) The Bill was widely described as regressive, disproportionately burdening low-income earners and small traders while wealthier individuals and entities find structural ways to minimise liability.

(c) Clause 36, expanding excise duty on mobile phones to 25% of excisable value, was sharply criticised as making smartphones unaffordable for lower-income Kenyans, suppressing mobile money ecosystems, and damaging Kenya's digital economy and the livelihoods of micro-entrepreneurs who rely on mobile connectivity.

(d) The removal of EAC preferential treatment for several imported goods was cited as undermining Kenya's regional integration commitments.

(e) Clauses 17 and 22, introducing withholding taxes on scrap metal sales on the gross amount rather than actual profit, were described as punitive to low-income informal recyclers operating on thin margins.

(f) The proposed 20% withholding tax on gambling winnings was opposed as excessive, with participants noting that players are already staking their own money and the tax discourages participation in legitimate economic activity.

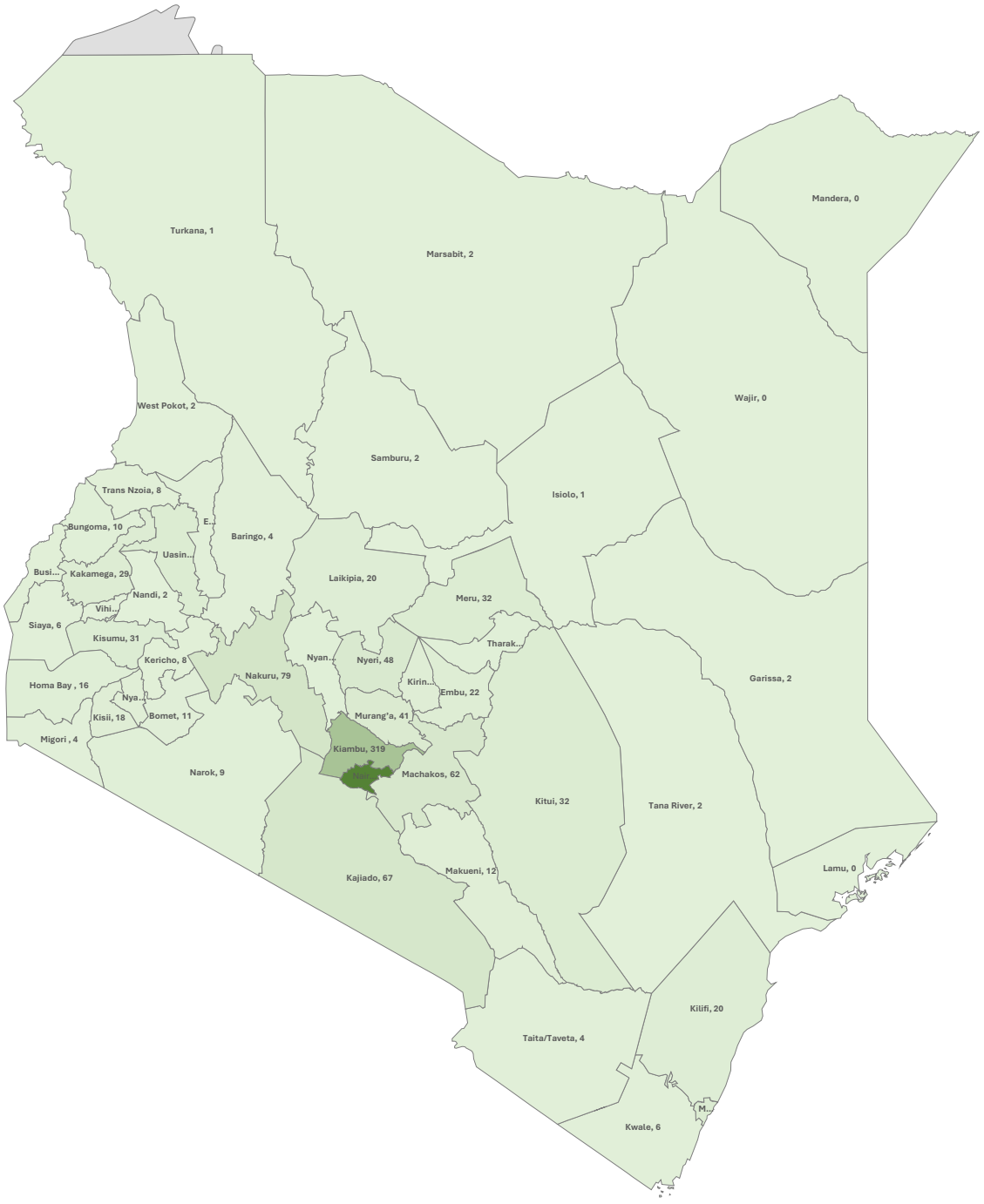
(g) Clause 32, reclassifying several goods from Zero-Rated to Exempt VAT status, was described as a hidden inflationary tax bomb. Unlike Zero-Rating, Exempt status prevents manufacturers from reclaiming input VAT, forcing them to embed that hidden cost into final consumer prices and quietly raising the cost of household essentials.

(h) Clause 50's expanded penalty regime was opposed for granting KRA broad automated assessment powers without adequate safeguards for taxpayer representation or human review. Respondents called for mandatory notices of intent and a minimum 30-day window for taxpayers to respond before any penalties are imposed, citing the right to fair administrative action.

(i) Across many submissions, opposition was framed not just as a financial objection but as a broader protest against poor public service delivery, corruption, and the absence of visible returns on taxes already paid. Participants argued that sustainable revenue growth must begin with job creation, reduced government wastage, and demonstrated accountability to citizens rather than an expanded tax burden on struggling households.

Fig 1: Views Submitted Per county

Number of Views per County



Key:

County	Number of Views
Mombasa	37
Kwale	6
Kilifi	20
Tana River	2
Lamu	0
Taita/Taveta	4
Garissa	2
Wajir	0
Mandera	0
Marsabit	2
Isiolo	1
Meru	32
Tharaka-Nithi	10
Embu	22
Kitui	32
Machakos	62
Makueni	12
Nyandarua	10
Nyeri	48
Kirinyaga	19
Murang'a	41
Kiambu	319
Turkana	1

County	Number of Views
West Pokot	2
Samburu	2
Trans Nzoia	8
Uasin Gishu	32
Elgeyo/Marakwet	5
Nandi	2
Baringo	4
Laikipia	20
Nakuru	79
Narok	9
Kajiado	67
Kericho	8
Bomet	11
Kakamega	29
Vihiga	4
Bungoma	10
Busia	8
Siaya	6
Kisumu	31
Homa Bay	16
Migori	4
Kisii	18
Nyamira	12
Nairobi	784

CHAPTER FOUR

4.0 COMMITTEE GENERAL OBSERVATIONS

The Committee, having considered the Finance Bill (National Assembly Bills No. 26 of 2026), made the following observations, **THAT**:

a) The distribution of software does not constitute an activity that generates royalties. In line with international best practices, the Committee therefore recommended the deletion of the phrase "and include distribution of the software" from the relevant provision.

b) On the proposal to amend the definition of "immovable property" under section 2 of the Income Tax Act by replacing the word "and" with "or", the Committee observed that the amendment seeks to clarify that interests relating to land and interests arising from mining and petroleum rights are independent categories capable of separately constituting immovable property. The existing wording, which uses the term "and", creates ambiguity by suggesting that both categories must exist simultaneously. The proposed amendment therefore improves legal certainty by ensuring that gains arising from Kenyan land-based assets or extractive resources remain taxable in Kenya. Therefore, the Committee observed that the proposal does not introduce a new tax but reinforces the application of sections 6 and 9 of the Income Tax Act and the Eighth Schedule, thereby protecting the tax base and promoting consistent administration of the law.

c) On interchange fees and merchant fees, the Committee observed that the Bill seeks to address an existing gap in the taxation of income arising from card-based transactions. Currently, such fees are not classified as management or professional fees and therefore are not subject to withholding tax under section 35 of the Income Tax Act. The Committee observed that the proposal in the Bill provides clarity on the tax treatment of these fees by bringing them within the withholding tax framework. The Committee further observed that the proposal applies to taxable payments within digital payment systems and does not extend to ordinary consumer transactions such as mobile money transfers.

d) With regard to the definition of winnings and withdrawals in the gaming and betting sector, the Committee observed that frequent changes to the applicable provisions, have created uncertainty for operators and undermined predictability in the tax framework. The proposed amendment in the Bill appears to shift the tax approach back towards taxing winnings rather than withdrawals, while excluding the amount staked or wagered from the taxable base. The Committee noted that this approach may reintroduce ambiguity and inconsistency in the administration of betting and gaming taxes, particularly in light of the recent changes introduced

through the Finance Act, 2025, which sought to provide greater clarity and predictability in the taxation of gaming activities. To promote certainty, stability, and a consistent basis for tax compliance, the Committee proposed the deletion of the proposed amendment in the Bill

e) The Committee further observed that gratuity payments earned after 1st July, 2025 are currently exempt from income tax irrespective of the length of service, creating a broad exemption that may be susceptible to abuse through tax planning arrangements, particularly where remuneration is structured as gratuity under short-term contracts. The Bill therefore seeks to clarify the circumstances under which gratuity payments qualify for exemption by introducing a three-year continuous service requirement, limiting the exempt amount to thirty-one percent of basic salary, and excluding persons who already benefit from pension deductions. The Committee supported the proposal as it provides clear eligibility criteria for the preferential tax treatment of gratuity, safeguards the tax base, and minimises opportunities for tax avoidance.

f) Regarding rental income earned by non-resident persons from property situated in Kenya, the Committee observed that the current requirement for tenants to withhold tax presents practical challenges, particularly where tenants are unaware of the landlord's tax residency status. The Bill therefore proposes the introduction of section 6B requiring non-resident landlords to register and account for tax under a simplified compliance framework, except where the property is managed by an agent, in which case the agent shall be responsible for withholding the tax. The Committee supported the proposal as it strengthens compliance, enhances tax administration, and provides clarity on responsibility for withholding obligations while avoiding double taxation where tax has already been withheld by an appointed agent.

g) On the introduction of a 1.5 percent withholding tax on the sale of scrap metal, the Committee observed that the repeal of the previous withholding tax regime created compliance gaps in a largely informal, cash-based sector characterised by limited record-keeping. The Committee observed that the proposed withholding tax is intended to formalise the sector, improve transaction traceability, enhance compliance, and reduce revenue leakage.

h) On taxation of trust income and the elimination of double taxation on beneficiary distributions, the Committee observed that income earned by a trust is currently taxed at the trustee level, but subsequent distribution to beneficiaries may result in the same income being subjected to tax again. The Bill seeks to provide that once tax has been paid by the trustee, executor, or administrator, beneficiaries shall not be taxed again upon receiving distributions. The Committee supported

the proposal as it introduces a one stop taxation point, reduces administrative complexity, promotes compliance, and limits opportunities for tax avoidance.

i) The Committee also considered the proposal to extend mortgage interest relief to employees of the Central Bank of Kenya in respect of mortgage loans. The Committee recommended deletion of the proposal, noting that such employees already benefit from loans offered at preferential rates. Extending mortgage interest relief would create an additional advantage and introduce unequal treatment within the tax system.

j) On the proposal to introduce a minimum deemed dividend distribution threshold, the Committee observed that the Bill proposed a sixty percent threshold on undistributed income to address tax deferral. However, the Committee recommended an amendment of the proposed threshold, noting that such a requirement would place undue pressure on businesses and limit their ability to retain earnings for investment and growth. Therefore, the Committee recommended adoption of a moderated threshold of forty percent to balance revenue collection objectives with business sustainability.

k) Regarding changes to the due dates for filing tax returns, the Committee observed that the Bill proposes different timelines depending on the nature of the return, with nil returns required to be filed within the first month after the end of the year of income and other individual returns within the fourth month. While the Committee acknowledged that the proposal seeks to enhance efficiency in tax administration, it recommended amendments to provide individuals with four months and corporates with six months to file their returns. The Committee observed that nil returns require minimal information and processing time, whereas corporate returns involve more complex financial records and compliance requirements, making the proposed amended timelines more practical and consistent with existing filing practices.

l) On taxation of death benefits, the Committee observed that although certain retirement benefits are exempt from tax, the law does not expressly provide for the treatment of death benefits payable to dependants. The Bill seeks to clarify that such benefits paid to beneficiaries following the death of a pensioner be exempt from tax. Therefore, the Committee supported the proposal as it provides certainty and aligns the law with the existing treatment of retirement benefits.

m) The Committee further observed that the Bill proposes the removal of the preferential five percent withholding tax rate applicable to dividends paid to East African investors. The Committee observed that the preferential rate creates unequal treatment based on residency and represents a tax incentive that is not clearly linked to economic performance. The Committee supports the proposal as

it aligns with the National Tax Policy objective of rationalising tax expenditures and promoting a fair, efficient, and neutral tax system.

n) On excise duty applicable to mobile phones, the Committee observed that the current framework requires payment of excise duty at importation or upon removal from the factory for locally manufactured phones. The Bill proposes shifting the tax point to the time of activation on a mobile network. Following engagement with stakeholders, the Committee observed that this proposal would create significant compliance challenges, delay revenue collection, and create uncertainty for consumers. The Committee therefore recommended that the proposal be deleted, noting that further policy review and stakeholder consultation would be required before implementation.

o) On the proposed reclassification of certain supplies from zero-rated to exempt status, the Committee recommended retaining their zero-rated status. The affected items include locally assembled and manufactured mobile phones, electric motorcycles, electric bicycles, solar and lithium-ion batteries, electric buses, transportation of sugar cane from farms to milling factories, and inputs or raw materials used in the manufacture of animal feeds. The Committee observed that these items were recently granted zero-rated status under the Finance Act, 2023 to support local manufacturing and reduce the cost of essential goods. Reversing this position would increase production costs, discourage investment, and undermine predictability in the tax system.

p) The Committee further considered the correction of the reference to virtual asset service providers. The Committee observed that the Finance Act, 2025 introduced excise duty on fees charged on virtual asset transactions but incorrectly referred to "virtual asset providers" instead of "virtual asset service providers." The proposed amendment aligns the Excise Duty Act with the terminology used under the Virtual Asset Service Providers Act, 2025, thereby improving clarity and supporting effective implementation.

q) On the expansion of the Commissioner's powers to issue data-driven tax assessments, the Committee observed that the Bill seeks to empower the Commissioner to issue assessments based on information obtained from third-party sources, electronic tax systems, employer filings, and audit records. While the Committee recognised that this strengthens tax administration by enabling system-generated assessments, it observed the need for procedural safeguards to protect taxpayers' rights. The Committee therefore recommended the introduction of section 29A to the Tax Procedures Act requiring the Commissioner to disclose the information sources and computations relied upon in issuing an assessment. The Committee further recommended that such disclosure be a condition for validity of the assessment and that, where disputed,

the Commissioner bears the responsibility of demonstrating the accuracy and reliability of the information used.

r) On the introduction of tax amnesty, the Committee observed that the Bill proposes the reintroduction of a one-year tax amnesty effective 1st July, 2026, covering liabilities accrued up to 31st December, 2025, and providing for waiver of penalties, interest, and fines upon payment of the principal tax by 30th June, 2027. The Committee supported the proposal, noting that significant outstanding tax arrears remain unresolved due to compliance gaps, disputes, and administrative constraints. A targeted and time-bound amnesty provides an opportunity to unlock revenue, encourage voluntary compliance, broaden the tax base, and allow the revenue authority to focus resources on future compliance.

s) The tax amnesty programme introduced in 2023 was successful in facilitating the recovery of outstanding tax liabilities. The programme attracted 1.06 million applications, resulting in the declaration of Kshs. 54.5 billion in principal tax liabilities and the successful collection of Kshs. 43.9 billion between September 2023 and June 2024. The amnesty provided for the waiver of penalties and interest on tax debts accrued up to 31st December, 2022, thereby encouraging taxpayers to voluntarily disclose and settle historical liabilities. Following its initial expiry, the Government extended the programme to March 2025, further demonstrating its effectiveness in promoting compliance and supporting revenue mobilisation efforts.

t) However, the Committee observed that repeated use of tax amnesty programmes may create moral hazard by weakening the culture of voluntary compliance, as some taxpayers may delay payment of taxes in anticipation of future waivers on penalties and interest. This may create an unfair environment where compliant taxpayers bear the burden while non-compliant taxpayers benefit from future relief measures. The Committee therefore observed that the long-term success of the initiative will depend on continued taxpayer engagement, strengthened compliance measures, and effective enforcement following the conclusion of the amnesty period to ensure that amnesty remains a targeted intervention rather than an expected recurring benefit.

u) On limitations to tax credit offsets, the Committee observed that restricting the offsetting of tax overpayments against VAT on imports would negatively affect taxpayers' cash flow and increase working capital constraints. The Committee therefore recommended deletion of the proposal to preserve taxpayers' ability to utilise verified tax credits.

v) Regarding pre-populated tax returns based on electronic tax system data, the Committee observed that the proposal could simplify compliance, reduce errors, and improve efficiency. However, the Committee noted that safeguards were required to protect taxpayers' rights, including the right to review, amend, or

object to pre-populated information and clarity on responsibility where taxpayers rely on information provided by the Commissioner. The Committee therefore recommended amendments to allow taxpayers to accept, amend, or challenge the Commissioner's determination while maintaining the obligation to provide supporting evidence where necessary.

w) On the removal of restrictions on the issuance of agency notices and strengthening of the Commissioner's enforcement powers, the Committee observed that allowing the Commissioner to issue agency notices during the pendency of objections, appeals, alternative dispute resolution (ADR) processes, or court proceedings would undermine taxpayers' rights to challenge tax decisions and weaken existing dispute resolution safeguards. The Committee noted that such a measure could result in significant cash flow constraints and operational disruptions for taxpayers, particularly where amounts recovered are later found not to be payable. The Committee further observed that the proposal raises concerns relating to the right to fair administrative action, access to justice, and delays in the refund of amounts collected where taxpayers are successful in their appeals. Given that the existing provisions under the Tax Procedures Act provide adequate mechanisms for enforcement while protecting taxpayers' rights, the Committee recommended the deletion of the proposal from the Bill.

x) On the proposal to include weekends and public holidays in computing timelines for filing tax objections and appeals, the Committee observed that the amendment would effectively shorten the period available to taxpayers to exercise their rights. This may increase the risk of procedural default, particularly where deadlines fall immediately after non-working days. The Committee noted that the proposal may undermine procedural fairness and the right to a fair hearing under Article 50 of the Constitution by limiting taxpayers' ability to adequately prepare and submit objections or appeals. The Committee therefore recommended deletion of the proposal to ensure that taxpayers have a reasonable and practical period within which to exercise their statutory rights.

y) There was need to strengthen the enforcement framework for the recovery of government revenue collected by the Kenya Revenue Authority (KRA) on behalf of other government entities. The Committee noted that although the Commissioner is empowered under various written laws to collect certain fees, levies, and charges, there is currently no uniform mechanism for enforcement and recovery of such amounts where they remain unpaid. This creates administrative challenges and may affect effective revenue mobilisation.

z) The Committee therefore recommended the amendment of the Tax Procedures Act by inserting a new section to provide an enforcement mechanism for such collections. The proposed provision will empower the Commissioner,

notwithstanding any other written law, where the Commissioner is responsible for collecting a fee, levy, or charge, to recover the unpaid amount as a civil debt due to the Government in the same manner as unpaid tax under a tax law. The provision further proposes that where the unpaid amount does not exceed one hundred thousand shillings, the debt may be recovered through a summary recovery process. The Committee observed that the amendment would enhance efficiency in revenue collection, reduce administrative delays, and strengthen accountability in the management of public revenues.

aa) Over time, the Kenya Revenue Authority has faced challenges in meeting revenue targets due to constraints in financing revenue administration activities, including enforcement, compliance monitoring, and system improvements. To enhance the capacity of the Authority to undertake revenue mobilisation initiatives, the Committee recommended measures to provide additional resources for effective tax administration. In this regard, the Committee proposed an amendment to the Affordable Housing Act to adjust the Affordable Housing Levy contribution from the current rate of 0.5 percent to a maximum rate of 2 percent.

CHAPTER FIVE

COMMITTEE RECOMMENDATION

2337. The Committee having considered the Finance Bill (National Assembly Bill No. 26 of 2026) recommends that the House approves the Bill with amendments as proposed in the schedule.

SIGNED.....**DATE**.....16th June, 2026

HON. FCPA KURIA KIMANI, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

CHAPTER SIX

6 SCHEDULE OF PROPOSED AMENDMENTS

2338. The Committee will propose amendments to be considered by the House at the Committee stage:

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION - 2026
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

ADOPTION LIST

REPORT ON THE FINANCE BILL (NATIONAL ASSEMBLY NO.26 OF 2026)

We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, ***Monday, 15th June 2026.***

S/NO.	NAME	SIGNATURE
1.	HON. FCPA. KURIA KIMANI, CBS, MP - **CHAIRPERSON**	
2.	HON. FCPA (AMB). BENJAMIN KIPKIRUI LANGAT, MP – **VICE CHAIRPERSON**	
3.	HON. KALUMA PETER OPONDO, CBS, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. FCPA JOSEPH MAERO OYULA, OGW, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. CHIFOROMODO MANGALE MUNGA, MP	
9.	HON. GATHONI WA MUCHOMBA, HSC, MP	
10.	HON. (CPA) JULIUS KIPLETTING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	