

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2023**

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**NAIROBI, 26th June, 2023**

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**THE FINANCE ACT, 2023****No. 4 of 2023***Date of Assent: 26th June, 2023**Date of Commencement: See Section 1***AN ACT of Parliament to amend the laws relating to various taxes and duties; and for matters incidental thereto****ENACTED** by the Parliament of Kenya, as follows –**PART I—PRELIMINARY**

1. This Act may be cited as the Finance Act, 2023, and shall come into operation or be deemed to have come into operation as follows—

Short title and commencement.

- (a) on the 1st of September, 2023, sections 10, 26(b)(xiii), 52, 56, 63, 64 and 74;
- (b) on the 1st January, 2024, sections 5(c), 6, 12, 14, 20, 25, 26(a), 26(b)(iii), 26(b)(v), 26(b)(vii), 26(b)(ix), 26(b)(x), 26(b)(xii), and 27; and
- (c) all other sections, on the 1st July, 2023.

**PART II—INCOME TAX**

2. Section 2 of the Income Tax Act is amended—

Amendment of section 2 of Cap. 470.

- (a) by deleting the definition of “winnings” and substituting therefor the following new definition—

“winnings” means the payout from a betting, gaming, lottery, prize competition, gambling or similar transaction under the Betting, Lotteries and Gaming Act, excluding the amount staked or wagered in that transaction;

Cap. 131.

- (b) by inserting the following new definitions in proper alphabetical sequence—

“digital content monetisation” means offering for payment entertainment, social, literal, artistic, educational or any other material electronically through any medium or channel, in any of the following forms—

- (a) advertisement on websites, social media platforms or similar networks by partnering with brands including endorsements from sellers of such brands;

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- (b) sponsorship where a brand owner pays a content creator for content creation and promotion;
- (c) affiliate marketing where the content creator earns a commission whenever the audience of the content creator clicks on the product displayed;
- (d) subscription services where the audience pays a periodic fee to access the content and support the content creator;
- (e) offering for use a logo, brand or catchphrase associated with the content creator merchandise sales eBooks, course or software;
- (f) membership programmes for exclusive content including early access;
- (g) licensing the content including photographs, music or other businesses or individuals for use in the user's own projects; or
- (h) a content creator earns a commission or fees from crowd funding.

“immovable property” includes—

- (a) land, whether covered by water or not, any estate, rights, interest or easement in or over any land and things attached to the earth or permanently fastened to anything attached to the earth, and includes a debt secured by mortgage or charge on immovable property; and
- (b) a mining right, an interest in a petroleum agreement, mining information or petroleum information;

“related person” means, in the case of two persons where a person who participates directly or indirectly in the management, control or capital of the business of another person.

**3.** Section 3(3) of the Income Tax Act is amended in paragraph (c) by deleting subparagraph (i).

Amendment of section 3 of Cap. 470.

**4.** Section 4A of the Income Tax Act is amended—

Amendment of section 4A of Cap. 470.

- (a) by deleting paragraph (ii) of the proviso to subsection (1) and substituting therefor the following new paragraph—

- (ii) the foreign exchange loss shall be deferred (and not taken into account) and claimed over a period of not more than five years from the date the loss was realized by a person whose gross interest paid or payable to a non-resident person exceeds thirty per cent of the person's earnings before interest, taxes, depreciation, and amortization in any year of income;

(b) by deleting subsection (1A).

**5. Section 5 of the Income Tax Act is amended—**

Amendment of section 5 of Cap. 470.

(a) in subsection (2), —

- (i) by inserting the following new subparagraph in paragraph (a) immediately after sub paragraph (iii) —

- (iv) notwithstanding the provisions of subparagraph (ii), where such an amount is received by an employee as payment of travelling allowance to perform official duties, the standard mileage rate approved by the Automobile Association of Kenya shall be deemed to be reimbursement of the amount so expended and shall be excluded in the calculation of the employee's gains and profits:

- (ii) by inserting the following new paragraph immediately after paragraph (f)—

- (fa) club entrance and subscription fees allowed against the employer's income.

(b) in subsection (6)(c)—

- (i) by deleting the words “shares were granted by the employer” appearing in subparagraph (i) and substituting therefor the words “option was exercised by the employee”;
- (ii) by deleting the words “which shall be agreed upon with the Commissioner before the grant of the options” appearing in subparagraph (ii) and substituting therefor the words “when the option is exercised”;

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(c) by inserting the following new subsections immediately after subsection (6)—

(7) Where an employee is offered company shares in lieu of cash emoluments by an eligible start-up, the taxation of the benefit from the shares allocated to that person by virtue of employment shall be deferred and taxed within thirty days of the earlier of—

- (a) the expiry of five years from the end of the year of the award of the shares;
- (b) the disposal of the shares by the employee; or
- (c) the date the employee ceases to be an employee of the eligible start-up:

Provided that—

- (i) this subsection shall not apply to any cash emoluments or other benefits in kind offered to an employee by virtue of the employment;
- (ii) the benefit shall be deemed to accrue at the earlier of the occurrence of the events contemplated in paragraphs (a), (b) or (c);
- (iii) the value of the taxable benefit shall be the fair market value of the shares at the earlier of the occurrence of the events contemplated in paragraphs (a), (b) or (c); or
- (iv) where the fair market value is not available, the Commissioner shall determine the value of the shares based on the last issued financial statements.

(8) For the purposes of subsection (7), “eligible start-up company” means a business incorporated in Kenya that—

- (a) has an annual turnover of not more than one hundred million shillings;
- (b) does not carry on management, professional or training business;

- (c) has not been formed as a result of splitting or restructuring of an existing entity; and
- (d) has been in existence for a period of not more than five years.

6. The Income Tax Act is amended by inserting the following new section immediately after section 7A—

Insertion of new section in Cap. 470.

Repatriated income.

**7B.** (1) A non-resident person who carries on business in Kenya through a permanent establishment shall pay tax on repatriated income for the year of income.

(2) The repatriated income under subsection (1) shall be computed using the following formula—

$$R = A_1 + (P - T) - A_2$$

Where—

**R** is the repatriated profit;

**A<sub>1</sub>** is the net assets at the beginning of the year;

**P** is the net profit for the year of income calculated in accordance with generally accepted accounting principles;

**T** is the tax payable on the chargeable income; and

**A<sub>2</sub>** is the net assets at the end of the year.

(3) The tax imposed under this section shall be in addition to tax chargeable on the income of the permanent establishment under section 4.

(4) For the purposes this section, “net assets” means the total book value of assets less total liabilities for the year of income and shall not include revaluation of assets.

7. Section 10 of the Income Tax Act is amended by inserting the following new subsection immediately after subsection (2)—

Amendment of section 10 of Cap. 470.

(3) Where a payment has been made to a non-resident person, withholding tax paid thereon shall not be

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refundable or available for deduction against the income where an audit adjustment has been made in respect of such payment.

**8.** Section 11 of the Income Tax Act is amended by deleting subsection (3A).

Amendment of section 11 of Cap. 470.

**9.** Section 12C of the Income Tax Act is amended in subsection (1) by deleting the words “but does not exceed or is not expected to exceed fifty million shillings” and substituting therefor the following words “but does not exceed or is not expected to exceed twenty-five million shillings”.

Amendment of section 12C of Cap. 470.

**10.** The Income Tax Act is amended by inserting the following new section immediately after Section 12E—

Insertion of a new section 12F in Cap. 470.

Digital asset tax.

**12F.** (1) Notwithstanding any other provision of this Act, a tax to be known as digital asset tax shall be payable by a person on income derived from the transfer or exchange of digital assets.

(2) The owner of a platform or the person who facilitates the exchange or transfer of a digital asset shall deduct the digital asset tax and remit it to the Commissioner.

(3) A non-resident person who owns a platform on which digital assets are exchanged or transferred shall register under the simplified tax regime.

(4) A person who is required to deduct the digital asset tax shall, within five working days after making the deduction, remit the amount so deducted to the Commissioner together with a return of the amount of the payment, the amount of tax deducted, and such other information as the Commissioner may require.

(5) For the purposes of this section—

(a) “digital asset” includes—

(i) anything of value that is not tangible and cryptocurrencies,

token code, number held in digital form and generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration that can be transferred, stored or exchanged electronically; and

- (ii) a non-fungible token or any other token of similar nature, by whatever name called; and
- (b) “income derived from transfer or exchange of a digital asset” means the gross fair market value consideration received or receivable at the point of exchange or transfer of a digital asset.

**11. Section 15 of the Income Tax Act is amended—**

Amendment of section 15 of Cap. 470.

- (a) in subsection (2) by—
  - (i) deleting paragraph (g) and substituting therefor the following new paragraph—
- (b) in subsection (3), by deleting the word “five” appearing in paragraph (b) and substituting therefor the word “six”;
- (c) in subsection (7)(e), by deleting item (iii).

**12. Section 16 of the Income Tax Act is amended—**

Amendment of section 16 of Cap. 470.

- (a) in subsection (1), by inserting the following new paragraph immediately after paragraph (b)—
  - (c) any expenditure or loss where the invoices of the transactions are not generated from an electronic tax invoice management system except where the transactions have been exempted in accordance with the Tax Procedures Act, 2015.

No. 29 of 2015.

- (b) in subsection (2)—

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- (i) in paragraph (a), by deleting subparagraph (v);
- (ii) in paragraph (j), by deleting the words “related persons and third parties” appearing in the opening words and substituting therefor the words “a non-resident”;
- (iii) in paragraph (iii) of the proviso to paragraph (j)—
  - (A) by deleting item G;
  - (B) by deleting item H;
- (iv) by inserting the following new paragraphs at the end of the proviso to paragraph (j)—
  - (iv) any interest in excess of thirty per cent of earnings before interest, taxes, depreciation and amortization shall be an allowable deduction in ascertaining the total income of a person in the subsequent three years of income to the extent that the deduction of interest on loans from non-resident persons does not exceed the thirty percent threshold provided under this section; and
  - (v) this provision shall not apply where the interest is exempt from tax under this Act.
- (c) in the definition of “all loans” appearing in subsection (3), by inserting the words “but shall not include local loans” immediately after the word “premium”.

**13.** Section 18 of the Income Tax Act is amended by deleting subsection (4).

Amendment of section 18 of Cap. 470.

**14.** Section 18A of the Income Tax Act is amended by inserting the following new subsection immediately after subsection (2)—

Amendment of section 18A of Cap. 470.

(3) For the purposes of this section, qualifying intellectual property income that subject to the preferential tax rate shall be determined using the following formula—

$$I = \left( \frac{Q}{T} \right) \times P$$

Where—

**I** is income receiving tax benefits;

**Q** is the research and development expenditures made by the taxpayer, excluding acquisition costs and related party outsourcing costs;

**T** is the research and development expenditures made by the taxpayer, including acquisition costs and related party outsourcing costs; and

**P** is intellectual property income including royalties, capital gains and any other income from the sale of an intellectual property asset including embedded intellectual property income calculated under transfer pricing principles:

Provided that for the purposes of this subsection intellectual property losses shall only be deducted against intellectual property income.

**15.** Section 18D of the Income Tax Act is amended—

Amendment of section 18D of Cap. 470.

(a) by deleting subsection (1) and substituting therefor the following new subsection—

(1) Each ultimate parent entity that is resident in Kenya shall file a country-by-country report with the Commissioner in accordance with subsection (3).

(b) by inserting the following new subsections immediately after subsection (1)—

(1A) A constituent entity that is resident in Kenya shall file a country-by-country report with the Commissioner in accordance with subsection (1B), if one of the following conditions applies—

(a) the ultimate parent entity is not obligated to file a country-by-country report in its jurisdiction of tax residence;

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- (b) the jurisdiction in which the ultimate parent entity is resident has a current international tax agreement which Kenya is a party to but does not have a competent authority agreement with Kenya at the time of filing the country-by-country report for the reporting financial year; or
- (c) there has been a systemic failure of the jurisdiction of tax residence of the ultimate parent entity that has been notified by the Commissioner to the constituent entity resident in Kenya.

(1B) The provisions of subsections (1) and (1A) shall apply to a multinational enterprise group whose total consolidated group turnover, including extraordinary or investment income, is at least ninety-five billion shillings during the financial year immediately preceding the reporting financial year as reflected in its consolidated financial statements for such preceding financial year.

- (c) in subsection (2), by inserting the words “or a constituent entity” immediately after the words “parent entity”;
- (d) in subsection (3), by deleting the words “In addition to the provisions in subsection (1)”.

**16.** Section 18F of the Income Tax Act is amended by deleting the definition of “ultimate parent entity” and substituting therefor the following new definition—

“ultimate parent entity” means an entity which—

- (a) is not controlled by another entity; and
- (b) owns or controls, directly or indirectly, one or more constituent entities of a multinational enterprise group.

**17.** Section 21 of the Income Tax Act is amended—

- (a) by deleting subsection (1) and substituting therefor the following new subsection—

(1) A body of persons which carries on the activities of a members’ club or trade association

Amendment of  
section 18F of  
Cap. 470.

Amendment of  
section 21 of Cap.  
470.

shall be deemed to be carrying on a business and the gross receipts on revenue account (excluding joining fees, welfare contributions and subscriptions) shall be deemed to be income from a business.

(b) by deleting subsection (2).

**18.** Section 28A of the Income Tax Act is amended-

Amendment of section 28A of Cap.470

(a) in paragraph (b), by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines”; and

(b) by inserting the word “and” at the end of paragraph (b).

**19.** Section 31 of the Income Tax Act is amended in subsection (1)—

Amendment of section 31 of Cap. 470.

(a) by deleting the word “his” appearing in paragraph (b) and substituting therefor the words “the individual’s”;

(b) deleting the words “he, as well as his employer” appearing in paragraph (c) and substituting therefor the words “the individual and the individual’s employer”.

**20.** The Income Tax Act is amended by inserting the following new section immediately after section 31 —

Insertion of a new section 31A of Cap. 470.

Post-retirement medical fund relief.

**31A.** A resident individual who proves that in a year of income the person has contributed to a post-retirement medical fund shall for that year of income be entitled to a personal relief in this Act referred to as the post-retirement medical fund relief.

**21.** Section 35 of the Income Tax Act is amended—

Amendment of section 35 of Cap. 470.

(a) in subsection (1) by inserting the following new paragraph immediately after paragraph (p)-

(q) digital content monetisation;

(b) in subsection (3), by inserting the following paragraphs immediately after paragraph (j)—

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(k) sales promotion, marketing and advertising services; and

(l) digital content monetisation.

(c) by inserting the following new subsections immediately after subsection (3A)—

(3AA) A person who receives rental income on behalf of the owner of the premises shall deduct tax therefrom:

Provided that only a person appointed by the Commissioner in writing for that purpose may deduct tax under this section.

(3AB) A person who deducts rental income tax under this section shall, within five working days after the deduction was made, remit the amount so deducted to the Commissioner together with a return in writing of the tax deducted and such other information as the Commissioner may require.

(3AC) The Commissioner shall, upon receipt of the amount remitted under subsection (3AB), furnish the person from whom the rental income tax was withheld with a certificate stating the amount of the rent and tax deducted therefrom.

(d) in subsection (5), by deleting the words “on or before the twentieth day of the month following the month in which” and substituting therefor the words “within five working days after”.

**22.** The Income Tax Act is amended by repealing section 45.

Repeal of section 45 of Cap. 470.

**23.** The Income Tax Act is amended in section 133(6), by deleting the expression “31st December 2023” and substituting therefor the expression “31st December, 2024.”

Amendment of section 133 of Cap. 470

**24.** The First Schedule to the Income Tax Act is amended—

Amendment of the First Schedule to Cap. 470.

(a) by inserting the following new proviso immediately after the proviso to paragraph 10—

Provided further that in this paragraph, “institution, body of persons or irrevocable trust,

of a public character” means an entity established to benefit the public in a transparent and accountable manner without restriction or discrimination regardless of the level of charges or fees levied for services rendered, and which utilises its assets or income exclusively to carry out the purpose for which the entity was established without conferring a private benefit to an individual.

(b) by deleting paragraph 65;

(c) by inserting the following new paragraphs immediately after paragraph 67—

68. Royalties paid to a non-resident person by a company undertaking the manufacture of human vaccines.

69. Interest paid to a resident person or non-resident person by a company undertaking the manufacture of human vaccines.

70. Investment income from a post-retirement medical fund, whether or not the fund is part of a retirement benefits scheme.

71. Income earned by a non-resident contractor, sub-contractor, consultant or employee involved in the implementation of a project financed through a one hundred percent grant under an agreement between the Government and the development partner, to the extent provided for in the Agreement:

Provided that the non-resident is in Kenya solely for the implementation of the project financed by the one hundred percent grant.

72. Gains on transfer of property within a special economic zone enterprise, developer and operator.

73. Royalties, interest, management fees, professional fees, training fees, consultancy fee, agency or contractual fees paid by a special economic zone developer, operator or enterprise, in the

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first ten years of its establishment, to a non-resident person.

25. The Second Schedule to the Income Tax Act is amended—

Amendment of  
the Second  
Schedule to  
Cap. 470.

(a) in paragraph 1 (1) (a) by inserting the following new items immediately after item (vii) —

(viii) Industrial Building      10%

(ix) Dock                              10% in equal  
instalments

(b) in the proviso to paragraph 1—

(i) in the definition of “civil works”, by inserting the following new item immediately after item (v)—

(vi) earthworks for telecommunication equipment and construction works undertaken in connection with the installation and maintenance of telecommunication equipment and related structures.

(ii) in paragraph (f), by inserting the words “refining or” immediately after the words “means the” appearing in the definition of “manufacture”;

(iii) by inserting the following new paragraphs immediately after paragraph (h)—

(i) “dock” includes a container terminal berth, harbour, wharf, pier, jetty, storage yard, or other works in or at which vessels load or unload merchandise but does not include a pier or jetty used for recreation;

(j) “industrial building” includes a building in use for the purpose of transport, bridge, tunnel, inland navigation water and electricity or hydraulic power undertaking;

(k) “machinery used for agriculture” means machinery used directly in agricultural

activities including tilling, planting, irrigation, weeding and harvesting;

- (l) “telecommunications equipment” includes civil works deemed as part of the telecommunication equipment or civil works that contribute to the use of the telecommunication equipment.

- (c) by inserting the following new paragraph immediately after paragraph (1A)—

(1B) Paragraph (1A) shall apply to items listed under paragraphs 1(1)(a)(i) and (ii), and (1)(b)(i).

**26.** The Third Schedule to the Income Tax Act is amended—

Amendment  
of the Third  
Schedule to  
Cap. 470.

- (a) in Head A, by inserting the following new paragraph immediately after paragraph 3—

4. Post-retirement medical fund relief

The amount of post-retirement medical fund relief shall be fifteen per cent of the amount of contribution paid or sixty thousand shillings per annum, whichever is lower.

- (b) in Head B—

- (i) by deleting paragraph 1 and substituting therefor the following new paragraph—

1. The individual rates of tax shall be—

	<i>Rate in each shilling</i>
On the first Ksh. 288,000	10%
On the next Ksh. 100,000	25%
On the next Ksh. 5,612,000	30%
On the next Ksh. 3,600,000	32.5%
On all income over Ksh. 9,600,000	35%

- (ii) by deleting paragraph 1A;

- (iii) in paragraph 2(b), by inserting the following new item immediately after item (vii)—

*Rate in each  
twenty shillings*

- (viii) for the year of 6.00  
income 2024 and each  
subsequent year of  
income
- (iv) by deleting the proviso to paragraph 2(j)  
and substituting therefor the following  
new proviso—  
Provided that—
- (i) the rate of fifteen per cent shall be  
extended for a further period of five  
years if the company achieves a local  
content equivalent to fifty per cent of  
the ex-factory value of the motor  
vehicles; and
- (ii) in this paragraph, “local content”  
means parts designed and  
manufactured in Kenya by an  
original equipment manufacturer  
operating in Kenya.
- (v) by inserting the following new subparagraph  
immediately after subparagraph 2(o)—
- (p) in respect of a company undertaking  
the manufacture of human vaccines,  
ten per cent.
- (vi) in paragraph 3, by inserting the following  
new item immediately after item (r) –
- (s) in the case of repatriated income under  
section 7B, fifteen per cent;
- (t) in the case of digital content  
monetisation, twenty percent of the  
gross amount;
- (vii) in paragraph 5(ja), by deleting the word  
“ten” and substituting therefor the word  
“seven point five”;
- (viii) in paragraph 5, by inserting the following  
new subparagraph immediately after  
subparagraphs (k)—

- (l) in respect of payments for sales promotion, marketing, advertising services, five per cent of the gross amount; and
  - (m) in respect of payments relating to digital content monetisation, five per cent.
- (ix) in paragraph 8, by deleting subparagraph (a) and substituting therefor the following new subparagraph—
- (a) for vans, pick-ups, trucks, prime movers, trailers and lorries, two thousand five hundred shillings per tonne of load capacity per year or five thousand shillings per year, whichever is higher:  

Provided that advance tax shall not be imposed on the tractors or trailers used for agricultural purposes.
- (x) in paragraph 8, by deleting subparagraph (b) and substituting therefor the following new subparagraph—
- (b) for saloons, station-wagons, mini-buses, buses and coaches, one hundred shillings per passenger capacity per month or five thousand shillings per year, whichever is higher.
- (xi) in paragraph 9, by deleting the word “one” and substituting therefor the word “three”;
- (xii) in paragraph 10, by deleting the word “ten” and substituting therefor the word “seven point five”;
- (xiii) by inserting the following new paragraph immediately after paragraph 12—
13. The rate of tax in respect of digital asset tax shall be three per cent of the transfer or exchange value of the digital asset.

**27.** The Fourth Schedule to the Income Tax Act is amended by inserting the following paragraph at the end thereof—

Amendment of the Fourth Schedule to Cap. 470.

Cap. 491. Mortgage refinance companies licensed under the Central Bank of Kenya Act.

**28.** The Eighth Schedule to the Income Tax Act is amended—

Amendment of the Eighth Schedule to Cap. 470.

(a) by deleting paragraph 2 and substituting therefor the following new paragraph—

### **2. Taxation of gains**

Subject to this Schedule, income in respect of which tax is chargeable under section 3(2)(f) is—

- (a) the whole of the gains which accrued to a company, an individual or partnership on or after the 1st January, 2015, on the transfer of property situated in Kenya, whether or not the property was acquired before 1st January, 2015, or
- (b) gains derived from the alienation of shares or comparable interests, including interests in a partnership or trust, if, at any time during the three hundred and sixty-five days preceding the alienation, the shares or comparable interests derived more than twenty per cent of their value directly or indirectly from immovable property situated in Kenya, or
- (c) gains, other than those to which subparagraph (a) applies, derived from the alienation of shares of a company resident in Kenya if the alienator, at any time during the three hundred and sixty-five days preceding such alienation, held directly or indirectly at least twenty per cent of the capital of that company:

Provided that for the purposes of this paragraph, the person alienating the shares shall notify the Commissioner in writing where there is a change of at least twenty

per cent in the underlying ownership of the property.

- (b) in paragraph 8, by inserting the following new subparagraph immediately after subparagraph (4)—

(4A) Where property is transferred in a transaction that is not subject to capital gains tax, and the property is subsequently transferred in a taxable transaction within a period of less than five years, then the adjusted cost in the subsequent transfer shall be based on the original adjusted cost as determined in the first transfer.

- (c) by deleting paragraph 11A and substituting therefor the following new paragraph—

11A. The due date for tax payable in respect of property transferred under this Part shall be the earlier of—

- (a) receipt of the full purchase price by the vendor; or
- (b) registration of the transfer.

- (d) in paragraph 13, by deleting item (c) and substituting therefor the following new item—

- (c) an internal restructuring which does not involve a transfer of property to a third party within a group which has existed for at least twenty-four months.

**29.** The Ninth Schedule to the Income Tax Act is amended in paragraph 14, by deleting the words “ten per cent” appearing in subparagraph (1) and substituting therefor the words “twenty per cent”.

Amendment of the Ninth Schedule to Cap. 470.

## **PART II—VALUE ADDED TAX**

**30.** Section 5 of the Value Added Tax Act, 2013, is amended in subsection (2)—

Amendment of section 5 of No. 35 of 2013.

- (a) by deleting paragraph (aa);

- (b) by deleting paragraph (ab).

**31.** Section 8 of the Value Added Tax Act, 2013, is amended in subsection (2), by deleting the words “not a

Amendment of section 8 of No. 35 of 2013.

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registered person and” and substituting therefor the words “a registered or unregistered person”.

**32.** Section 12 of the Value Added Tax Act, 2013 is amended by inserting the following new subsection immediately after subsection (1) -

Amendment of section 12 of No. 35 of 2013

(1A) Subject to sub-section (1), in the case of the national carrier, the time of supply shall be the date on which the goods are delivered or services performed.

**33.** Section 17 of the Value Added Tax Act, 2013, is amended—

Amendment of section 17 of No. 35 of 2013.

(a) in subsection (2), by deleting the word “or” appearing in paragraph (a) and substituting therefor the word “and”;

(b) by inserting the following new subsection immediately after subsection (8)—

(9) Where a *bona fide* owner of taxable supplies, who has deducted input tax under subsection (1), is compensated for the loss of the taxable supplies, the compensation shall be treated as a taxable supply and—

(a) if the compensation includes value added tax, the compensation shall be declared and the value added tax thereon remitted to the Commissioner; or

(b) if the compensation does not include value added tax, the compensation shall be declared and subjected to value added tax and the tax remitted to the Commissioner.

**34.** Section 31 of the Value Added Tax Act, 2013 is amended by deleting sub-section (1) and substituting therefor the following new sub-section –

Amendment section 31 of No. 35 of 2013

(1) Where a registered person has made a supply and has accounted for and paid tax on that supply but has not received any payment from the person liable to pay the tax on that supply and that person—

(a) has not received any payment from the person liable to pay the tax, he may, after a period of three years from the date of the supply; or

- (b) the person to whom the supply was made has been placed under statutory management through the appointment of an administrator, receiver, or liquidator,

he may apply to the Commissioner for refund of the tax involved:

Provided that-

- (a) no application for a refund shall be made under this section after the expiry of ten years from the date of supply;
- (b) the refund shall be made in compliance with section 47(5) of the Tax Procedures Act;
- (c) the amounts may be credited to the taxpayer's record for use against future value added tax liabilities;
- (d) where the tax refunded under sub-section (1) and (2) is subsequently recovered from the recipient of the supply, the registered person shall refund the tax to the Commissioner with sixty days of the date of recovery;
- (e) if the payment is made within the time specified under subsection (1) and (2), an interest of two per cent per month or part thereof of the tax refunded shall forthwith be due and payable and the interest shall not exceed one hundred per cent of the refunded amount.

**35.** Section 34 of the Value Added Tax Act, 2013, is amended in subsection (1), by deleting the proviso and substituting therefor the following new proviso—

Amendment of section 34 of No. 35 of 2013.

Provided that a person supplying imported digital services over the internet, an electronic network or through a digital marketplace shall register whether or not the taxable supplies meet the turnover threshold of five million shillings.

**36.** Section 43 of the Value Added Tax Act, 2013, is amended in subsection (1), by deleting the words “in Kenya”.

Amendment of section 43 of No. 35 of 2013.

**37.** The First Schedule to the Value Added Tax Act, 2013, is amended—

Amendment of First Schedule to No. 35 of 2013.

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(a) in Section A of Part I—

(i) by deleting paragraph 20 and substituting therefor the following new paragraph—

20. Fish and crustaceans, molluscs and other aquatic invertebrates of Chapter 3 excluding those of tariff headings 0305, 0306 and 0307;

(ii) by inserting the following tariff numbers and corresponding tariff descriptions, in proper sequence, into the table appearing immediately after paragraph 39—

<i>Tariff Number</i>	<i>Description</i>
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	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
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

(iii) by deleting the tariff numbers; “0402.29.10”, “3002.19.00” and their corresponding tariff description, appearing in the table immediately after paragraph 39;

(iv) by deleting the tariff number “3002.11.00” appearing in the table immediately after paragraph 39 and substituting therefor the tariff number “3822.11.00”;

- (v) by deleting the tariff number “3002.20.00” appearing in the table immediately after paragraph 39 and substituting therefor the tariff number “3002.41.00”;
- (vi) by deleting the tariff number “3002.30.00” appearing in the table immediately after paragraph 39 and substituting therefor the tariff number “3002.42.00”;
- (vii) in the table appearing immediately after paragraph 39 by deleting the tariff description corresponding to the tariff number “3003.39.00” and substituting therefor the following new tariff description—  

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.
- (viii) in the table appearing immediately after paragraph 39 by deleting the tariff description corresponding to tariff number “3004.20.00” and substituting therefor the following new tariff description—  

Other medicaments containing antibiotics, put up in measured doses or in forms or packings for retail sale.
- (ix) in the table appearing immediately after paragraph 39 by deleting the tariff description corresponding to the tariff number “3004.32.00” and substituting therefor the following new tariff description—  

Other, medicaments containing hormones or other products of heading 29.37 containing corticosteroid hormones, their derivatives or structural analogue of tariff.
- (x) by deleting the tariff number “3006.20.00” appearing in the table appearing immediately after paragraph 39 and substituting therefor the tariff number “3822.13.00”;

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- (xi) in the table appearing immediately after paragraph 39 by inserting the words “on other products of heading 29.37 or” immediately before the word “spermicides” appearing in the tariff description corresponding to the tariff number “3006.60.00”;
- (xii) in the table appearing immediately after paragraph 39 by deleting the words “Other artificial parts of the body” appearing in the tariff description corresponding to the tariff number “9021.50.00”;
- (xiii) in the table appearing immediately after paragraph 39 by deleting the tariff numbers; “3005.90.10”, “3004.90.90”, and “3003.90.10” and their corresponding tariff description thereof;
- (xiv) by deleting paragraph 49 and substituting therefor the following new paragraph—

49. All goods and parts thereof of chapter 88;
- (xv) by deleting paragraph 63 and substituting therefor the following new paragraph —

63. Taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty, approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary responsible for health who may issue guidelines for determining eligibility for the exemption.
- (xvi) by deleting paragraph 66A;
- (xvii) by deleting paragraph 71 and substituting therefor the following new paragraph—

71. Printed and unprinted Perforated PE film of other plastics 15-22 gsm of tariff numbers 3921.90.10, and 3921.90.90.
- (xviii) by deleting paragraph 108;

- (xix) by deleting paragraph 119 and substituting therefor the following new paragraph—
119. 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;
- (xx) by deleting paragraph 120 and substituting therefor the following new paragraph—
120. 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.
- (xxi) by deleting paragraph 122 and substituting therefor the following new paragraph—
122. 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.
- (xxii) by deleting paragraph 125 and substituting therefor the following new paragraph—
125. Artificial teeth of tariff number 9021.21.00, other dental fittings of tariff number 9021.29.00 and other artificial parts of the body of tariff numbers 9021.31.00 and 9021.39.00 and other appliances of tariff number 9021.90.00 upon approval by the Cabinet Secretary responsible for matters relating to health.
- (xxiii) by deleting paragraph 128 and substituting therefor the following new paragraph—

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128. Discs, tapes, solid-state non-volatile storage devices, “smartcards” and other media for the recording of sound or of other phenomena, whether or not recorded of tariff heading 85.23, including matrices and masters for the production of discs, but excluding products of Chapter 37 upon approval by the Cabinet Secretary responsible for matters relating to health.
- (xxiv) by deleting paragraph 129 and substituting therefor the following new paragraph—
129. Weighing machinery (excluding balances of a sensitivity of 5 cg or better), of tariff number 8423.10.00 purchased or imported by registered hospitals upon approval by the Cabinet Secretary responsible for matters relating to health.
- (xxv) by deleting paragraph 130;
- (xxvi) by inserting the words “or locally purchased” immediately after the word “imported” appearing in paragraph 140;
- (xxvii) by amending paragraph 145 in paragraph (b) by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines”; and
- (xxviii) by inserting the following new paragraph immediately after paragraph 146—
147. Taxable supplies made to or by a school feeding programme recognized by the Cabinet Secretary responsible for matters relating to education.
- (b) in Part II in paragraph 34 —
- (a) by deleting the words “goods, inputs and raw materials” and substituting therefor the word “services”; and

- (b) by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines” in paragraph (b);

**38.** The Second Schedule to the Value Added Tax Act, 2013, is amended—

Amendment of  
the Second  
Schedule to No.  
35 of 2013.

(a) in Part A —

- (i) by deleting paragraph 20 which provides as follows—

20. The supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten percent in weight:

Provided this paragraph shall be in operation for a period of six months from the date of assent.

- (ii) by deleting paragraph 23 and substituting therefor the following new paragraph—

23. The exportation of taxable services.

- (iii) by inserting the following new paragraph immediately after paragraph 25—

26. Inbound international sea freight offered by a registered person.

27. Liquefied Petroleum Gas.

28. All tea and coffee locally purchased for the purpose of value addition before exportation subject to approval by the Commissioner-General.

29. The supply of locally assembled and manufactured mobile phones.

30. The supply of motorcycles of tariff heading 8711.60.00

31. The supply of electric bicycles.

32. The supply of solar and lithium ion batteries.

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33. The supply of electric buses of tariff heading 87.02.
34. Inputs or raw materials locally purchased or imported for the manufacture of animal feeds.
35. Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).

### PART III—TAX APPEALS TRIBUNAL

**39.** Section 13 of the Tax Appeals Tribunal Act, 2013, is amended—

Amendment of section 13 of No. 40 of 2013.

- (a) in subsection (2), by deleting paragraph (c) and substituting therefor the following new paragraphs—
  - (c) the appealable decision; and
  - (d) such other documents as may be necessary to enable the Tribunal to make a decision on the appeal.
- (b) by inserting the following new subsection immediately after subsection (8)—

(9) For the purposes of this section, “appealable decision” has the meaning assigned to it in section 3(1) of the Tax

No. 29 of 2015. Procedures Act, 2015.

### PART IV—EXCISE DUTY

**40.** Section 2 of the Excise Duty Act, 2015, is amended in the definition of “excise control” by deleting the expression “section 23” and substituting therefor the expression “section 24”.

Amendment of section 2 of No. 23 of 2015

**41.** The Excise Duty Act, 2015, is amended by repealing section 10.

Repeal of section 10 of No. 23 of 2015.

**42.** Section 20 of the Excise Duty Act, 2015, is amended in subsection (5), by inserting the words “being not less than fourteen days” immediately after the words “date specified in the notice” appearing in paragraph (b).

Amendment of section 20 of No. 23 of 2015

**43.** Section 28 of the Excise Duty Act, 2015, is amended by inserting the following new subsections immediately after subsection (5)—

Amendment of section 28 of No. 23 of 2015.

- (6) A person who—
- (a) defaces or prints over an excise stamp affixed on any excisable goods or package;
  - (b) knowingly is in possession of excisable goods on which excise stamps have not been affixed and which have not been exempted from the requirements of this Act or Regulations made under this Act;
  - (c) acquires or attempts to acquire an excise stamp without the authority of the Commissioner;
  - (d) prints, counterfeits, makes or in any way creates an excise stamp without the authority of the Commissioner;
  - (e) knowingly is in possession of an excise stamp which has been printed, made or in any way acquired without the authority of the Commissioner;
  - (f) knowingly is in possession of, conveys, distributes, sells, offers for sale or trades in excisable goods without affixing excise stamps in accordance with this Act or Regulations made under this Act; or
  - (g) is in possession of, conveys, distributes, sells, or trades in excisable goods which have been affixed with counterfeit excise stamps, commits an offence.

(7) A person who commits an offence under subsection (6) is liable, upon conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding three years, or to both.

**44.** Section 36 of the Excise Duty Act, 2015, is amended by inserting the following new subsection immediately after subsection (1)-

Amendment of section 36 of No. 23 of 2015.

(1A) Despite subsection (1), in the case of a licensed manufacturer of alcoholic beverages, excise duty shall be payable to the Commissioner within twenty-four hours upon removal of the goods from the stockroom.

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**45.** The Excise Duty Act, 2015, is amended by inserting the following new section immediately after section 36—

Insertion of new section in No. 23 of 2015.

Payment of excise duty within twenty-four hours.

**36A.** (1) Despite the provisions of section 36, excise duty on betting and gaming, offered through a platform or other medium, shall be remitted to the Commissioner by a bookmaker within twenty-four hours from the closure of transactions of the day.

(2) For the purposes of this section, “closure of transactions of the day” means midnight of that day.

(3) The Commissioner may, by notice in the *Gazette*, require taxpayers in any sector to remit excise duty collected on certain excisable services within twenty-four hours from the closure of transactions of the day.

**46.** The Excise Duty Act, 2015, is amended by repealing section 40.

Repeal of section 40 of No. 23 of 2015.

**47.** The First Schedule to the Excise Duty Act, 2015, is amended—

Amendment of First Schedule to No. 23 of 2015.

(a) in Part I—

(i) by deleting the tariff number 2709.00.10 appearing in paragraph 1, and the corresponding tariff description and rate of duty;

(ii) by deleting the tariff description “Imported White chocolate including chocolate in blocks, slabs or bars of tariff nos. 1806.31.00, 1806.32.00, and 1806.90.00” and substituting therefor the following tariff description—

Imported white chocolate of heading 1704;

Imported chocolate and other food preparations containing cocoa of tariff nos. 1806.31.00, 1806.32.00 and 1806.90.00;

(iii) by inserting the word “Imported” immediately before the tariff description

“Articles of plastic of tariff heading 3923.30.00 and 3923.90.90”;

- (iv) by deleting the following description “Motorcycles of tariff 87.11 other than motorcycle ambulances and locally assembled motorcycles” and substituting therefor the following new description “Motorcycles of tariff 87.11 other than motorcycle ambulances, locally assembled motorcycles and electric motorcycles”;
- (v) in the item of tariff description “Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products)” by deleting the rate of excise duty of “25%” and substituting therefor the rate of excise duty of “35%”;
- (vi) in the item of tariff description “Imported Alkyd” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
- (vii) in the item of tariff description “Imported Unsaturated polyester” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
- (viii) in the item of tariff description “Imported Emulsion VAM” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”.
- (ix) in the item of tariff description “Imported Emulsion - styrene Acrylic” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
- (x) in the item of tariff description “Imported Homopolymers” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
- (xi) in the item of tariff description “Imported Emulsion B.A.M.” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”.

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(xii) by inserting the following new items at the end of the second table appearing in paragraph 1—

<i>Description</i>	<i>Rate of excise duty</i>
Imported fish	10%
Powdered juice	Shs. 25 per kg
Imported sugar excluding imported sugar purchased by a registered pharmaceutical manufacturer;	Shs. 5 per kg
Imported cement	10% of the value or shs. 1.50 per kg, whichever is higher
Imported furniture of tariff heading 9403 excluding furniture originating from East African Community Partner States that meet the East African Community Rules of Origin	30%
Imported cellular phones	10%
Imported paints, varnishes and lacquers of heading 3208, 3209 and 3210	15%
Imported non- virgin test liner of heading 4805.24.00	25%
Imported non-virgin fluting medium of heading 4805.19.00	25%
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;	25%
Imported plates of plastic of tariff heading 3919.90.90, 3920.10.90, 3920.43.90, 3920.62.90 and 3921.19.90	25%

Imported paper or paper board, 25%  
labels of all kinds whether or not  
printed of tariff heading  
4821.10.00 and 4821.90.00

(b) in Part II—

- (i) by deleting the words “twenty percent” appearing in paragraph 1 and substituting therefor the words “fifteen percent”;
- (ii) by deleting the words “twenty percent” appearing in paragraph 2 and substituting therefor the words “fifteen percent”;
- (iii) by deleting the words “shall be twelve percent” appearing in paragraph 3 and substituting therefor the words “or payment service provides licensed under the National Payment System Act, 2011, shall be fifteen percent”;
- (iv) by deleting the words “seven-point five per cent” appearing in paragraph 4A and substituting therefor the words “twelve point five per cent”;
- (v) by deleting the words “seven-point five per cent” appearing in paragraph 4B and substituting therefor the words “twelve point five per cent”;
- (vi) by deleting the words “seven-point five per cent” appearing in paragraph 4C and substituting therefor the words “twelve point five per cent”;
- (vii) by deleting the words “seven-point five per cent” appearing in paragraph 4D and substituting therefor the words “twelve point five per cent”;
- (viii) by deleting paragraph 7;
- (ix) by inserting the following new paragraph immediately after paragraph 7—
  8. Excise duty on fees charged on advertisement on television, print media, billboards and radio stations on alcoholic

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beverages, betting, gaming, lotteries and prize competitions shall be at the rate of fifteen per cent.

- (c) in Part III by inserting the words “or gaming” immediately after the word “betting” appearing in the definition of “amount wagered or staked”.

**48.** The Second Schedule to the Excise Duty Act, 2015 is amended in Part A by inserting the following new paragraph immediately after paragraph 16-

Amendment of the Second Schedule to No. 23 of 2015.

17. Disassembled or unassembled kits for local assembly or manufacture mobile phones.

#### **PART VI—TAX PROCEDURES**

**49.** Section 3 of the Tax Procedures Act, 2015, is amended in the definition of “tax decision”—

Amendment of section 3 of No. 29 of 2015.

- (a) by deleting item (e);  
 (b) by inserting the words “or late payment interest” immediately after the word “penalty” appearing in paragraph (g).

**50.** Section 6A of the Tax Procedures Act, 2015, is amended by inserting the following new subsection immediately after subsection (2)—

Amendment of section 6A of No. 29 of 2015.

(3) Any multilateral agreement or treaty that has been entered into by or on behalf of the Government of Kenya relating to mutual administrative assistance in the collection of taxes shall have effect in the manner stipulated in such agreement or treaty.

**51.** Section 23 of the Tax Procedures Act, 2015, is amended by inserting the following new subsection immediately after subsection (3)—

Amendment of section 23 of No. 29 of 2015.

(3A) A trustee resident in Kenya who administers a trust registered in Kenya or outside Kenya shall maintain and avail to the Commissioner records required under a tax law, whether the income generated is subject to tax in Kenya or not.

**52.** The Tax Procedures Act, 2015, is amended by inserting the following new section immediately after section 23—

Insertion of a new section to No. 29 of 2015.

Electronic tax  
invoices.

**23A.** (1) The Commissioner may establish an electronic system through which electronic tax invoices may be issued and records of stocks kept for the purposes of this Act.

(2) A person who carries on business shall—

- (a) issue an electronic tax invoice through the system established under subsection (1); and
- (b) maintain a record of stocks in the system established under subsection (1).

(3) Where an electronic tax invoice required to ascertain tax liability is issued by a resident person or the permanent establishment of a non-resident person, that invoice shall be generated through the system established under subsection (1).

(4) The electronic tax invoice referred to in subsection (3) may exclude emoluments, imports, investment allowances, interest, airline passenger ticketing and similar payments.

(5) The Commissioner may, by notice in the *Gazette*, exempt a person from the requirements of this section.

**53.** Section 31 of the Tax Procedures Act, 2015, is amended in the opening words of subsection (6), by deleting the word “original”.

Amendment of section 31 of No. 29 of 2015.

**54.** The Tax Procedures Act, 2015, is amended by inserting the following new section immediately after section 32—

Insertion of a new section of No. 29 of 2015.

**32A.** (1) The Commissioner may recover or collect a tax claim pursuant to an international tax agreement contemplated in section 6A (3).

Mutual administrative assistance in the recovery or collection tax claims.

(2) The recovery of the tax claim under subsection (1), shall be in response to a request by the competent authority of a party to the international tax agreement.

(3) The request under subsection (2) shall be in respect of a tax claim which forms the subject of the international tax agreement permitting its enforcement in the requesting party and, unless otherwise agreed between the parties, which is not contested:

Provided that where the tax claim is against a person who is not a resident of the requesting state, this section shall only apply, unless otherwise agreed between the parties to the international tax agreement, where the claim may no longer be contested.

(4) The Commissioner, in respect of a request under subsection (2)—

- (a) may apply for an order under section 43(3); and
- (b) shall issue to the person who is alleged to be liable to pay the tax a notice requiring that person to state, within the period specified in the notice, whether that person admits liability for the amount or a lesser amount.

(5) The request under subsection (2) shall—

- (a) be in the prescribed form;
- (b) be accompanied by a tax claim issued by the requesting party in the form provided for by the relevant law of that requesting party;
- (c) indicate the amount of the tax due;
- (d) indicate whether liability for the amount is contested under the laws of the requesting party;
- (e) indicate, where liability for the amount is contested, whether the requesting party believes that the purpose of the dispute is to delay or frustrate the collection of the amount alleged to be due; and
- (f) indicate whether there is a risk of the person who is alleged to be liable to pay

the tax due, dissipating or concealing assets.

(6) Where the person who is alleged to be liable to pay the tax due admits liability, the Commissioner may issue a notice requiring that person to pay the amount for which the person has admitted liability, on a date specified in the notice.

(7) Where the person who is alleged to be liable to pay the tax due contests liability, the Commissioner shall, after consulting the requesting party, determine whether—

- (a) the liability for the amount due is not disputed in terms of the relevant laws of the requesting state;
- (b) despite the liability for the tax due being contested, the purpose of the dispute is to delay or frustrate the collection of the tax due; or
- (c) there is a risk of the person who is alleged to be liable to pay the tax due, dissipating or concealing assets,

and the Commissioner may then issue a notice requiring that person to pay the tax due or amount specified in the notice, on a date specified in the notice.

(8) If the person fails to comply with the notice under subsection (6), the Commissioner may commence proceedings for the recovery of the tax claim.

(9) The steps taken to assist the requesting party shall not affect the right of the person who is alleged to be liable to pay the tax due to have the liability for the tax determined in accordance with the Laws of Kenya.

(10) Where the Commissioner recovers or collects the tax due to the requesting party, the Commissioner shall deposit the amount into a dedicated account in the Central Bank of Kenya after which the amount shall be remitted to an account specified by the requesting party.

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**55.** The Tax Procedures Act, 2015, is amended repealing section 37.

Repeal of section 37 of No. 29 of 2015.

**56.** The Tax Procedures Act, 2015, is amended by inserting the following new section immediately after section 37D—

Insertion of a new section to No. 29 of 2015.

Commissioner to refrain from recovering interest, penalties or fines.

**37E.** (1) Notwithstanding any other provision of this Act, the Commissioner shall refrain from recovering penalties or interest on tax debt where a person had paid all the principal tax due before the 31st December, 2022.

(2) Where all the principal tax due had not been paid before the 31st December, 2022, a person shall apply to the Commissioner for an amnesty of interest or penalties on the unpaid tax, and propose a payment plan for the outstanding amount.

(3) For the purposes of subsection (2)—

(a) the amnesty shall be on interest or penalties on the unpaid tax that have accrued up to the 31st December, 2022;

(b) the amnesty shall only be granted once if the person—

(i) applies for amnesty and pays all the outstanding principal taxes not later than the 30th June 2024;

(ii) does not incur a further tax debt; and

(iii) signs a commitment letter for the settlement of all outstanding taxes that the person may owe.

(4) Despite subsection (2), any amount of principal tax as at 31st December, 2022 that remains unpaid on the 30th June, 2024,

shall attract interest and penalties for which no amnesty shall be granted under this section.

(5) Despite subsection (1) the Commissioner shall not remit, in whole or in part, any penalty or interest payable by a person, imposed under section 85.

**57.** Section 42 of the Tax Procedures Act, 2015, is amended by deleting subsection (14) and substituting therefor the following new subsection —

Amendment of section 42 of No. 29 of 2015.

(14) The Commissioner shall not issue a notice under this section unless —

- (a) the taxpayer has defaulted in paying an instalment under section 33(2);
- (b) the Commissioner has raised an assessment and the taxpayer has not objected to or challenged the validity of the assessment within the prescribed period;
- (c) the taxpayer has not appealed against an assessment specified in an objection decision within the prescribed timelines;
- (d) the taxpayer has made a self-assessment and submitted a return but has not paid the taxes due before the due date lapsed; or
- (e) the taxpayer has not appealed against an assessment specified in a decision of the Tribunal or court.

**58.** Section 42A of the Tax Procedures Act, 2015, is amended —

Amendment of section 42A of No. 29 of 2015.

- (a) in the proviso to subsection (1), by deleting the words “commencement of this Act” and substitute therefor the expression “1<sup>st</sup> July, 2022”.
- (b) by deleting subsection (4B) and substituting therefor the following new subsection —
  - (4B) The tax withheld under this section shall be remitted to the Commissioner within five working days after the deduction was made.
- (c) in subsection 4C (b) by deleting the words “twentieth day of the month following that in which” and

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substituting therefor the words “fifth working day after”.

**59.** The Tax Procedures Act, 2015, is amended by inserting the following new section immediately after section 42B—

Insertion of new section of No. 29 of 2015.

Appointment of rental income tax agents.

**42C.** (1) The Commissioner may appoint an agent for the purpose of the collection and remittance of rental income tax to the Commissioner.

(2) An appointment under subsection (1) may be revoked at any time by the Commissioner.

**60.** Section 47 of the Tax Procedures Act, 2015, is amended—

Amendment of section 47 of No. 29 of 2015.

(a) in subsection (1), by inserting the words “outstanding tax debts and” immediately after the word “taxpayer’s” appearing in paragraph (a);

(b) in subsection (2)—

(i) by inserting the words “outstanding tax debts or” immediately after the word “such” appearing in paragraph (a);

(ii) by deleting the words “two years from the date of application” appearing in paragraph (b) and substituting therefor the words “six months from the date of ascertainment and, if the Commissioner fails to refund, the overpaid tax shall be applied to offset the taxpayer’s outstanding tax debt or future tax liabilities”;

(c) by inserting the following new subsection immediately after subsection (4)—

(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.

**61.** Section 51 of the Tax Procedures Act, 2015, is amended—

Amendment of section 51 of No. 29 of 2015.

- (a) in subsection (4), by inserting the words “and request the taxpayer to submit the information specified in the notice within seven days after the date of the notice” immediately after the words “validly lodged”;
- (b) by inserting the following new subsection immediately after subsection (4)—

(4A) Despite subsection (3), where a taxpayer fails to provide the information required under subsection (4) or fails to provide the information within the specified period, the Commissioner may make an objection decision within sixty days after the date on which the notice of objection was lodged.

**62.** Section 55 of the Tax Procedures Act, 2015, is amended in subsection (1), by deleting the words “ninety days” and substituting therefor the words “one hundred and twenty days”.

Amendment of section 55 of No. 29 of 2015.

**63.** The Tax Procedures Act, 2015, is amended by inserting the following new section immediately after section 59—

Insertion of new section of No. 29 of 2015.

Data management and reporting system.

**59A.** (1) The Commissioner may establish a data management and reporting system for the submission of electronic documents including detailed transactional data relating to those documents.

(2) The Commissioner shall notify in writing the persons required to submit electronic documents through the system established under subsection (1).

(3) The electronic documents referred to in subsection (2) include electronic invoice returns—

- (a) of payments made by a person in the ordinary course of business where goods were exchanged for consideration by a person not employed in the business;
- (b) for payments made by a person in the ordinary course of business

where services were rendered, or in anticipation of services to be rendered, by a person not employed in the business;

- (c) for payments for services rendered, or in anticipation of services to be rendered, in connection with the formation, acquisition, development, or disposal of a business or a part of it, by persons not employed in the business;
  - (d) for periodical or lump sum payments in respect of a royalty; or
  - (e) for such other commercial or financial transaction as may be designated by the Commissioner.
- (4) For the purposes of this section—
- (a) “transactional data” includes—
    - (i) the names and addresses of each person to whom a payment was made;
    - (ii) where the payment is for services, the amount of the payment specifying whether the payment is a commission of any kind or is for expenses incurred in connection with rendering the services;
    - (iii) where the payment is in any form of valuable consideration other than money, the particulars of the consideration; and
    - (iv) such other particulars as the Commissioner may specify;
  - (b) references to payments for services include references to payments in the nature of commission of any kind and references to payments in

respect of expenses incurred in connection with the rendering of services; and

- (c) references to the making of payments include references to the giving of any form of valuable consideration, and the requirement imposed by paragraph (a)(iii) to state the amount of a payment shall, in relation to any consideration given otherwise than in the form of money, be construed as a requirement to give particulars of the consideration.

**64.** The Tax Procedures Act, 2015, is amended by repealing section 86 and substituting therefor the following new section—

Repeal and replacement of section 86 of No. 29 of 2015.

Penalty for failing to comply with electronic tax system.

**86.** (1) Where a tax law requires a taxpayer to issue an electronic tax invoice, submit a tax return in electronic form or pay a tax electronically, and the taxpayer fails to comply with that tax law, the Commissioner shall issue a notice in writing to the taxpayer requesting the reasons for the non-compliance.

(2) Where the reasons given under subsection (1) do not satisfy the Commissioner, the taxpayer shall be liable to a penalty of two times the tax due.

**65.** Section 89 of the Tax Procedures Act, 2015, is amended—

Amendment of section 89 of No. 29 of 2015.

- (a) by deleting subsection (6);  
 (b) by deleting subsection (7);  
 (c) by deleting subsection (8).

**66.** The Tax Procedures Act, 2015, is amended by inserting the following new section immediately after section 97—

Insertion of new section of No. 29 of 2015.

Offence of impersonating an authorized officer.

**97A.** (1) A person who is not an authorised officer commits an offence if that

person assumes the name or designation of an authorised officer and performs or procures the performance of any act which that person is not entitled to do.

(2) A person convicted of an offence under subsection (1) shall be liable to imprisonment for a term not exceeding three years.

**67.** Section 104 of the Tax Procedures Act, 2015, is amended in subsection (1), by deleting the word “and” and substituting therefor the word “or”.

Amendment of section 104 of No. 29 of 2015.

#### **PART VII—MISCELLANEOUS FEES AND LEVIES**

**68.** Section 7 of the Miscellaneous Fees and Levies Act, 2016, is amended—

Amendment section 7 of No. 29 of 2016.

(a) in subsection (2), by deleting the words “three point five” and substituting therefor the words “two point-five”;

(b) by deleting subsection (2A);

(c) in subsection (3), by deleting paragraph (b).

**69.** Section 5 of the Miscellaneous Fees and Levies Act, 2016, is amended by deleting subsection (4).

Amendment of section 5 of No. 29 of 2016.

**70.** The Miscellaneous Fees and Levies Act, 2016, is amended by inserting the following new section immediately after section 7—

Insertion of new section in No. 29 of 2016.

Export and investment promotion levy.

**7A.** (1) There shall be paid a levy to be known as the export and investment promotion levy, on all goods specified in the Third Schedule, imported into the country for home use.

(2) The levy shall be at the rates specified in the Third Schedule and shall be paid by the importer of such goods at the time of entering the goods into the country for home use.

(3) The purpose of the levy shall be to provide funds to boost manufacturing, increase exports, create jobs, save on foreign exchange and promote investments.

(4) The export and investment promotion levy shall not be charged on goods originating from East African Community Partner States that meet the East African Community Rules of Origin.

(5) The funds collected from the levy shall be paid into a fund established and managed in accordance with the Public Finance Management Act, 2012.

No. 18 of 2012.

**71.** Section 8 of the Miscellaneous Fees and Levies Act, 2016, is amended—

Amendment section 8 of No. 29 of 2016.

(a) in subsection (2) by deleting the words “two” and substituting therefor the words “one point-five”;

(b) by deleting subsection (2A).

**72.** The table appearing in Part I of the First Schedule to the Miscellaneous Fees and Levies Act, 2016, is amended by—

Amendment of the First Schedule to No. 29 of 2016.

(a) deleting the tariff description together with the rates of export levy corresponding to tariff number “4101.20.00” and substituting therefor the following—

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>Export Levy Rate</i>
4101.20.00	Whole unsplit hides and skins, 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	50% or USD 0.32/kg whichever is higher

(b) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4102.21.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;

(c) by deleting the tariff description together with the rates of export levy corresponding to tariff number “4102.29.00” and substituting therefor the following—

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>Export Levy Rate</i>
4102.29.00	Other raw skins of sheep or lamb (fresh, or salted, dried, limed,	50% or USD 0.32/kg whichever is higher

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pickled or otherwise preserved,  
but not tanned, parchment-dressed  
or further prepared), without wool  
on, whether or not split, other than  
those excluded by Note (c) to  
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- (d) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4103.20.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (e) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4103.30.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (f) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4103.90.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (g) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4104.19.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (h) by deleting tariff number “4101.40.00” together with the corresponding tariff description and rate of export levy;
- (i) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4101.50.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (j) by deleting the expression “80% or USD 0.55kg” appearing in tariff no. 4301.60.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (k) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4301.30.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (l) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4302.30.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (m) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4101.90.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (n) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4102.10.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;

- (o) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4301.10.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (p) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4301.80.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (q) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4301.90.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (r) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4302.11.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (s) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4302.19.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (t) by deleting the expression “80% or USD 0.55/kg” appearing in tariff no. 4302.20.00 and substituting therefor the expression “50% or USD 0.32/kg whichever is higher”;
- (u) by deleting tariff number “8002.00.10” and substituting therefor the tariff number “8002.00.00”;
- (v) by deleting tariff number “8105.00.00” together with the corresponding tariff description and rate of export levy;
- (w) by deleting tariff number “8107.30.00” appearing in the first column and substituting therefor tariff number “8112.61.00”;
- (x) by deleting tariff number “8109.30.00” together with the corresponding tariff description and rate of export levy;
- (y) by deleting tariff number “8110.20.20” appearing in the first column and substituting therefor tariff number “8110.20.00”;
- (z) by deleting the tariff description together with the rate of export levy corresponding to tariff number “4101.40.00”;
- (aa) by inserting the following new tariff numbers together with corresponding tariff descriptions and rates of export levy in proper sequence—

<i>Tariff no.</i>	<i>Tariff description</i>	<i>Export levy rate</i>
8106.10.00	Bismuth and articles thereof including waste and scrap containing more than 99.99% of bismuth, by weight	20%

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8106.90.00	Other bismuth and articles thereof including waste and scrap	20%
8105	Cobalt mattes and other intermediate products of cobalt metallurgy; cobalt and articles thereof, including waste and scrap	20%
8109.31.00	Waste and scrap of zirconium containing less than 1 part hafnium to 500 parts zirconium by weight	20%
1703	Molasses resulting from the extraction or refining of sugar	20% of the customs value

**73.** The Second Schedule to the Miscellaneous Fees and Levies Act, 2016, is amended—

Amendment of the Second Schedule to No. 29 of 2016.

(a) in part A—

(i) by deleting paragraph (x) and substituting therefor the following new paragraph—

(x) goods for official use by diplomatic and consular missions, the United Nations and its agencies, and institutions or organizations exempted under the Privileges and Immunities Act;

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(ii) by deleting paragraph (xv) and substituting therefor the following new paragraph—

(xv) All goods and parts thereof of Chapter 88.

(iii) by inserting the words “All goods including material supplies” at the beginning of paragraph (xxv);

(iv) by inserting the following new paragraph immediately after paragraph(xv)—

(xva) any other aircraft spare parts including aircraft engines imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation.

(v) in paragraph (xxvc) (b) by inserting the words “or other manufacturing activities including

refining” immediately after the words “human vaccines”;

(iv) by inserting the following new paragraphs immediately after (xxvi)—

(xxvii) goods imported for official use by international and regional organizations that have bilateral or multilateral agreements with Kenya; and

(xxviii) liquefied petroleum gas.

(xxix) the supply of denatured ethanol of tariff number 2207.20.00;

(xxx) bioethanol vapour (BEV) stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).

(b) in part B—

(i) by deleting paragraph (ii) and substituting therefor the following new paragraph—

(ii) goods imported for official use by diplomatic and consular missions, United Nations and its agencies, and institutions or organizations exempted under the Privileges and Immunities Act;

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(ii) by deleting paragraph (iii);

(iii) in paragraph (viii)(b), by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines”;

(iv) by inserting the words “All goods including material supplies” at the beginning of paragraph (ix);

(v) inserting the following new paragraphs immediately after paragraph (x)—

(xi) goods imported for official use by international and regional organizations that have bilateral or multilateral agreements with Kenya;

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- (xii) liquefied petroleum gas; and
- (xiii) all goods and parts thereof of Chapter 88.
- (xiv) the supply of denatured ethanol of tariff number 2207.20.00;
- (xv) bioethanol vapour (BEV) stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel);
- (xvi) any other aircraft spare parts including aircraft engines imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation;

74. The Miscellaneous Fees and Levies Act, 2016, is amended by inserting the following new schedule immediately after the Second Schedule—

Insertion of new Third Schedule to No. 29 of 2016.

### THIRD SCHEDULE

[s. 7A(1)]

<i>Tariff No.</i>	<i>Tariff description</i>	<i>Export and investment promotion levy rate</i>
2523.10.00	Cement Clinkers	17.5 % of the customs value
7207.11.00	Semi-finished products of iron or non-alloy steel containing, by weight, <0.25% of carbon; of rectangular (including square) cross-section, the width measuring less than twice the thickness	17.5 % of the customs value
7213.91.10	Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section	17.5 % of the customs value

**THIRD SCHEDULE***[s. 7A(1)]*

<i>Tariff No.</i>	<i>Tariff description</i>	<i>Export and investment promotion levy rate</i>
	measuring less than 14mm in diameter of cross section measuring less than 8 mm	
7213.91.90	Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section measuring less than 14mm in diameter; other	17.5 % of the customs value
4804.11.00	Uncoated kraft paper and paperboard, in rolls or sheets; Kraft liner; Unbleached	10% of the customs value
4804.21.00	Sack kraft paper; Unbleached	10% of the customs value
4804.31.00	Other kraft paper and paperboard weighing 150 g/m <sup>2</sup> or less: Unbleached	10% of the customs value
4819.30.00	Sacks and bags, having a base of a width of 40 cm or more	10% of the customs value
4819.40.00	Other sacks and bags, including cones	10% of the customs value

**PART VIII—MISCELLANEOUS**

**75.** The Betting, Gaming and Lotteries Act is amended by inserting the following new section immediately after section 69A—

Insertion of new section Cap.131.

Collection of taxes.

**69AA.** The taxes under sections 29A, 44A, 55A and 59B shall be collected in accordance with the provisions of the Tax Procedures Act, 2015.

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- 76.** Section 7 of the Kenya Roads Board Act, 1999 is amended in subsection (1) by –
- (a) deleting paragraph (g);
- (b) deleting the word “eight” appearing at the beginning of the paragraph and substituting therefor the word “five”.
- 77.** The Kenya Roads Board Act, 1999 is amended in section 35 by inserting the following subsection immediately after subsection (2)–
- (2A) The annual estimates shall be submitted together with a collated annual roads programme as provided for in section 19.
- 78.** The First Schedule to the Kenya Roads Board Act, 1999 is amended by–
- (a) deleting paragraph 4;
- (b) deleting paragraph 5 and
- (c) deleting paragraph 6.
- 79.** Section 5 of the Kenya Revenue Authority Act, 1995, is amended in subsection (2A), by deleting the words “for the better carrying out of its functions” and substituting therefor the words “the staff of the Authority, general public and other jurisdictions”.
- 80.** Section 13 of the Kenya Revenue Authority Act, 1995, is amended –
- (a) in subsection (1) by inserting the words “and Deputy Commissioners” immediately after the word “Commissioners”;
- (b) by deleting subsection (2).
- 81.** The First Schedule to the Kenya Revenue Authority Act, 1995 is amended by inserting the following new item immediately after item 12–
13. The Alcoholic Drinks Act, 2010
- 82.** Section 25B of the Retirement Benefits Act, 1997 is amended in subsection (1) by deleting the words “sixty per cent” appearing in paragraph (eb) and substituting therefor the words “thirty three percent”.

Amendment of section 7 of No. 7 of 1999.

Amendment of section 35 of No. 7 of 1999.

Amendment of the First Schedule to No. 7 of 1999

Amendment of section 104 of No. 2 of 1995.

Amendment to Section 13 of No. 2 of 1995.

Amendment of the First Schedule to No. 2 of 1995.

Amendment of No. 3 of 1997

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**83.** Section 38 of the Retirement Benefits Act, 1997 is amended by inserting the following new subsection immediately after subsection (1)-

Amendment of section 38 of No.3 of 1997

(1A) Subject to subsection (1) (b), where a fund is set up exclusively for the purpose of investing sharia complaint funds, the fund shall be exempted from the guidelines.

**84.** The Employment Act, 2007, is amended by inserting the following new sections immediately after section 31A—

Insertion of new section of No. 11 of 2007

Affordable Housing Levy.

**31B.**(1)Notwithstanding the provisions of section 3(2) (a), (b), (c) and (d) of the Act, each employee and employer shall pay a monthly levy to be known as the Affordable Housing Levy.

(2) The purpose of the Affordable Housing Levy shall be to provide funds for the development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.

(3) The Affordable Housing Levy shall not be used for any other purpose other than the development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.

(4) The monthly levy payable by the employer and employee shall be –

- (a) one point five per centum of the employee's gross monthly salary for the employee;
- (b) one point five per centum of the employee's monthly gross salary for the employer.

Obligations of the employer

**31C.** (1) An employer shall—

- (a) deduct an employee's monthly payment from the employee's gross monthly salary;

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- (b) set aside the employer's monthly payment for each employee; and
- (c) not later than nine working days after the end of the month in which the payments are due, remit an amount comprising the employee and the employer's payment.

(2) An employer who fails to comply with this section shall be liable to payment of a penalty equivalent to two per cent of the unpaid funds for every month the same remains unpaid.

**85.** Section 2 of the Alcoholic Drinks Act, 2010, is amended by inserting the following definition in its proper alphabetical sequence—

Amendment of section 2 of No. 4 of 2010

“minimum input cost” means input cost published by Kenya Revenue authority through excise regulations;

**86.** Section 31 of the Alcoholic Drinks Control Act, 2010, is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (b)-

Amendment of section 31 of No. 4 of 2010

(c) a person shall not sell, manufacture, pack or distribute alcoholic drinks at a price below the minimum input cost.

**87.** Section 28 of the Unclaimed Financial Assets Act, 2011, is amended in subsection (5), by inserting the words “or such other person as the claimant may designate” immediately after the word “claimant”.

Amendment of section 28 of No. 40 of 2011.

**88.** The Statutory Instruments Act, 2013 is amended by deleting the heading to Part V and substituting therefor the following new heading —

Amendment of section 20 No.23 of 2013

“PART V – PURPOSE FOR REVIEW OF STATUTORY INSTRUMENTS”

**89.** The Statutory Instruments Act 2013, is amended by repealing section 21.

Repeal of section 21 No.23 of 2013

**90.** The Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended by repealing section 4.

Repeal of section 4 of No.8 of 2015.

**91.** The Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended by inserting the following new sections immediately after section 4-

Insertion of section 4A and 4B into No.8 of 2015.

Entitlements for person holding appointive or elective position in Government.

**4A.** A person who—

- (a) holds an appointive or elective office in the Government; and
- (b) previously held a position to which pension and other benefits accrue under this Act,

shall, upon retirement or ceasing to hold that office entitled under this Act, be paid-

- (i) a monthly pension equal to eight per cent of the monthly salary of the entitled person's last monthly salary while in office; and
- (ii) a lumpsum payment on retirement as calculated as a sum equal to one year's salary paid for each term served in office.

Entitlement to parliamentary pension.

**4B.** A person, who holds an appointive or elective position for which benefits under this Act apply and is entitled to pension under the Parliamentary Pensions Act, shall in addition to the benefits and pension payable under this Act, be paid pension under section 8 of the Parliamentary Pensions Act.

**92.** Section 5 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended—

Amendment of section 5 of No.8 of 2015.

- (a) in subsection (1) (f) by deleting the words “and the entitled person's spouse” and substituting therefor the words “, the entitled person's spouse and the entitled person's child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

(b) by deleting subsection (2).

**93.** Section 5A of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “,the entitled person’s spouse and the entitled person’s child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

Amendment of section 5A of No. of 2015.

**94.** Section 5B of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “,the entitled person’s spouse and the entitled person’s child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

Amendment of section 5B of No. of 2015.

**95.** Section 6 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “,the entitled person’s spouse and the entitled person’s child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

Amendment of section 6 of No. of 2015.

**96.** Section 7 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “,the entitled person’s spouse and the entitled person’s child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

Amendment of section 7 of No. of 2015.

**97.** The First Schedule to the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended —

(a) in paragraph (b) by inserting the words “ or one chief liaison officer” immediately after the words “one personal assistant”; and

- (b) in paragraph (c) by inserting the words “or one assistant liaison officer” immediately after the words “one secretary.”

**98.** Section 13 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended by inserting the following new sub-section immediately after sub-section (1C) —

Amendment of section 13 of No.8 of 2015.

“(1D) The Clerk of the National Assembly in the case of a retired Speaker of the National Assembly and the Clerk of the Senate in the case of a retired Speaker of the Senate, shall prepare and submit the estimates under subsection (1)(b) to the Parliamentary Service Commission.”

**99.** Section 16 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is repealed.

Repeal of section 16 of No.8 of 2015.

**100.** Section 4 of the Special Economic Zones Act, 2015, is amended by deleting subsection 4 and substituting therefor the following new subsection —

Amendment to Section 4 of No. 16 of 2015.

(4) A special economic zone shall be a designated geographical area which may include both customs controlled area and non-customs controlled area where business enabling policies, integrated land uses and sector-appropriate on-site and off-site infrastructure and utilities shall be provided, or which has the potential to be developed, whether on a public, private or public-private partnership basis, where development of zone infrastructure and goods introduced in customs-controlled area are exempted from customs duties in accordance with customs laws.

**101.** Section 6 of the Special Economic Zones Act, 2015, is amended in paragraph (b) by —

Amendment of section 6 of No. 16 of 2015

- (a) deleting the word “Kenya” and substituting therefor the words “the customs territory”;
- (b) inserting the following proviso—  
 Provided that —  
 (i) goods whose content originates from the customs territory shall be exempt from payment of import duties;

- (ii) goods whose content partially originates from the customs territory shall pay import duties on the non-originating component subject to the customs procedures.

**102.** Section 24 of the Export Processing Zones Act, 1990, is amended by inserting the following proviso at the end of paragraph (b) –

Amendment of  
section 24 of Cap.  
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Provided that –

- (i) goods whose content originates from the customs territory shall be exempt from payment of import duties; and
- (ii) goods whose content partially originates from the customs territory shall pay import duties on the non-originating component subject to customs procedures.