

## Keeping you updated

### Finance Act (2023) Alert

The Parliament of the United Republic of Tanzania passed the Finance Bill, 2023 which was subsequently assented to by the President of the United Republic of Tanzania on 30 June 2023, hence effectively making it the Finance Act, 2023.

Further to our [Budget Highlights](#), this update sets out a high-level summary of updates and clarifications contained in the Finance Act, 2023 (“the Act”), which may have not been included in the Budget Speech read by the Minister for Finance and Planning (the Minister) or the Finance Bill.

## Income Tax Act CAP 332

The Finance Act 2023 makes the following amendments:

**Section 4(5)** is amended to provide tax rates for individuals engaged in the transportation of passengers and cargo who are not required by law to file tax returns.

### Our comments

This measure provides a presumptive tax regime that will simplify the tax compliance process for those in the transportation industry. The amendment reduces tax compliance costs thus encourages business formalization and compliance.

**Section 56** is amended to exclude from taxation, transactions where change of underlying ownership is a result of allotment of new membership interest, or a transfer of resident membership interest to another resident person.

### Our comments

The objective of this section was to widen the tax base by taxing the gains arising from offshore transactions that disposed interests locally. However, the wording of the provisions under this section left room for misinterpretation and a potential for taxing local transactions as well as those that did not involve a disposal but an entrance of a new partner. This measure will simplify the existing administrative complexities for investors, hence encouraging investment.

Whilst this move indicates the recognition on the part of the government of the challenges related to raising capital in international markets, there is some ambiguity in respect of an allotment of shares at a non-resident level. The reading of the law may be construed to only exempt capital gains when the allotment of new shares happens locally. There is therefore room to provide better clarity on this provision.

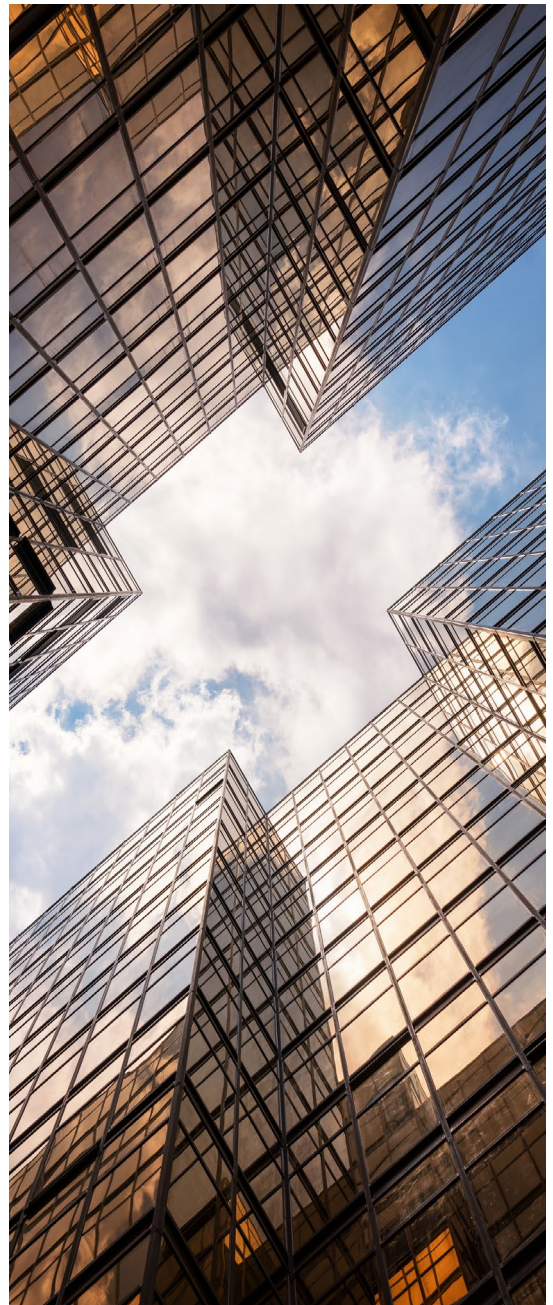
Repealing **Division VI of Part V** of the Income Tax Act, which introduced a special taxation regime for taxing persons engaged in the transportation of passengers or goods.

### Our comments

Division VI was introduced by the Finance Act 2022 with the aim of improving revenue collection of the sector. However, there were several challenges with regards to the uncertainty of how this advance tax will be paid i.e., since the tax is fixed based on carrying capacity of the vehicle, as opposed to actual performance of the business, it is likely that in low season the owners of the vehicles may end up overpaying taxes. And during high season, there may be a risk of underestimation. Repealing this section aims to reverse the impact experienced by the transportation sector since its introduction in 2022.



*“The scope of non-resident electronic services payments that have a source in Tanzania has been expanded to include payments made to non-resident suppliers for electronic services that can be connected to an individual in Tanzania regardless of the location from which the electronic service is paid”.*





## Income Tax Act CAP 332 cont.

**Section 69** expands the scope of payments that have a source in Tanzania to include payments made to non-resident suppliers for electronic services that can be connected to an individual in Tanzania regardless of the location from which the electronic service is paid.

### Our comments

The change is intended to widen the tax base and uphold equity between for all non-resident service providers. This amendment may mean that the foreign service providers may raise their prices to absorb the withholding tax that they will now suffer.

**Section 82(2)** is amended to remove the obligation of individuals to withhold tax on payment of rent in respect of residential premises.

### Our comments

This previous requirement imposed a challenge in the collection and remittance of the said WHT since individuals are normally not withholding tax agents. This measure removes the burden on individual tenants to pay withholding tax on behalf of their landlords.

**Sections 83(1) and 86(1)** introduces a 2% final withholding tax on payments for purchases of precious metals, gemstones and other precious stones from holders of primary mining licenses and artisanal miners, when such payments are done by a resident person. The aforementioned sections also impose a 10% final withholding tax on payments made by resident persons in relation to verified carbon emission reduction.

### Our comments

This measure intends to introduce a special regime of taxation to small scale miners which will resolve the existing challenges encountered in collecting tax in this sector. However, the 10% withholding tax on income accrued due to Verified Emission Reduction (VER) comes at a time where the government has enacted carbon credit trading regulations. The introduction of this tax may discourage resident businesses from carbon trading which is contrary to the country's desire to improve environmental conservation by reducing greenhouse gas emissions.

**Section 90(1)(b)** is amended to introduce a tax rate of 3% of the incomings or approved value of the land for sellers of land who do not possess documents/evidence substantiating the costs incurred in relation to the property.

### Our comments

This measure aims to ensure owners of properties always maintain supporting documents and avoid challenges in computing Capital Gains Tax (CGT) in an event where there is no such evidence.

*“Section 82(2) is amended to remove the obligation of individuals to withhold tax on payment of rent in respect of residential premises.”*



## Income Tax Act CAP 332 cont.

Section 90A is amended to enable the taxation of electronic services whether or not rendered through a digital marketplace and extends the due date for the submission of digital service tax on or before the twentieth day of the following month.

Furthermore, for the purposes of Section 90A, “gross payment” is defined to mean total amount of payment, excluding VAT, derived by a non-resident person from an individual, other than payment made in the course of conducting business, in respect of electronic services.

### Our comments

This measure widens the tax base and will improve tax compliance. However, it may result in an increase in the price of electronic services.

## Amendments to First Schedule of the Income Tax Act

- The Finance Act amends the First Schedule to provide for the tax rates of individuals engaged in transportation of cargo or passengers who are not required by law to file tax returns. This amendment comes as a result of the repealed Division VI, Part V of the Income Tax Act.

## Amendments to the Second Schedule of the Income Tax Act.

- The Act exempts gains derived from the internal restructuring of mining companies whereby there is a framework agreement between the government and the investor. The measure to exempt capital gains tax potentially resulting from an internal restructuring of mining companies whereby there is a framework agreement between the government and the investor, ensures that the government obtains optimal benefits from the mining sector, without triggering adverse tax impacts on the re-organising entity.
- Furthermore, the Act amends the Second Schedule to introduce an exemption of investment return in respect of fixed deposit, treasury bills or treasury bonds or dividends derived by the National Health Insurance Fund (NHIF). This measure is intended to help address the liquidity challenges NHIF faces and empower it to provide wider health services to the public.



*“The Act exempts gains derived from the internal restructuring of mining companies whereby there is a framework agreement between the Government and the investor”*





### The Tax Administration Act, CAP. 438

The Finance Act amends **Section 35 (9)** of the Tax Administration Act by widening the definition of the term "primary data server" to include a physical, virtual, or any other data server. Furthermore, section 35 (10) extends the period to which the requirement to maintain a primary data server will take effect i.e., **1 January 2024**. This extension will give more time for companies to comply with this requirement.

#### Our comments

The purpose of this provision was to simplify the accessibility of data and information that may be required by TRA during the process of revenue collection. The old definition however suggested that businesses would be required to maintain a physical primary data server in-country. This posed a financial burden on companies due to the increased costs to acquire the relevant hardware, supporting infrastructure and IT personnel. The amendment is a welcomed development as it allows for virtual servers which are more cost efficient, secure, environmentally friendly and aligned with global standards.

The Finance Act amends **Section 36 (1)** of the Act by deleting the words "or fiscal invoice by using the electronic fiscal device" to acknowledge the issuance of receipts from other approved devices or technologies. Furthermore, subsections (2) & (3) give the Commissioner General the mandate to publish a list or class of persons excluded from the requirement of the use of fiscal devices or issuance of receipt. However, the same are required to issue manual receipts.

#### Our comments

This measure enhances tax compliance and alleviates the burden of low-income taxpayers who cannot afford to purchase electronic fiscal machines to utilize other electronic means such as mobile phones as fiscal devices to conduct their businesses and pay taxes as well.

The Finance Act amends **Section 44A (1)** of the Act to provide for a mandatory timeframe of 30 days from the date of executing a contract, for entities engaged in the construction and extractive industry to disclose information relating to contractors and subcontractors.

The Finance Act amends **Section 45A** by adding a new subsection 4 to provide a definition of the terms "storage facility" by excluding from the scope the facilities that are part of a shop, factory, industry or farm. There is also an amendment the definition of the "owner" of a storage facility to now mean a person who establishes or operates and is in control of the facility and possession of the storage facility or a person to whom the storage facility has been leased or sub-let to.

#### Our comments

This measure solves the ambiguities relating to the definition of storage facility and an owner of a storage facility. This requirement however, remains a contentious issue as there is still lack of clarity regarding the process of registration and submission of monthly stock movements. To mitigate any penalties, it is recommended to consult the Revenue Authority.

The Finance Act amends **Section 71(3)** of the Act whereby an application for tax refund can be made within three years from the date of payment of tax in excess or from the date of a decision that gives rise to a tax credit.

The Finance Act amends **Section 86** by replacing the words "electronic fiscal device" with "fiscal device". Furthermore, the Finance Act provides for fines for failure to issue or demand a fiscal receipt.

#### The fines are:

- ✓ For failure to issue a fiscal receipt, the higher of 100 currency points (currently equivalent to TZS 1.5 million) or 20% of the value of goods sold or services rendered.
- ✓ For failure to demand a fiscal receipt, the higher of 2 currency points (currently equivalent to TZS 30,000) or 20% of the tax evaded.

The challenge with this provision is that it does not define what constitutes "tax evaded" and is not clear on the application of the said penalty (i.e. does it apply per year, month, or per issued invoice).

The Finance Act amends the First Schedule of the Act by imposing a requirement to file the bed night levy return will be filed with the TRA.

## The Value Added Tax Act, CAP. 148

The Act makes the following amendments:

Amends **Section 2** so that the definition of the term "fiscal receipt" aligns with that of the Tax Administration Act, CAP. 438. The term fiscal receipt will then mean, a receipt of an invoice issued using EFD, a Government electronic payment gateway system, or any other approved system or technology.

Amends **Section 6** to exempt raw materials used solely in the manufacture of packaging materials of pharmaceuticals products, as well as pre-fabricated structures of HS Code 9406.20.90 to be used solely for poultry farming.

Amends **Section 11** to include the deferment of VAT on locally manufactured goods up to 30 June 2026.

Amends **Section 51** to expand the scope of electronic services by including "online intermediation services" and "online advertisement services".

Amends **Section 55A** to extend the timeframe for zero-rating locally produced fertilizers for an additional one year (from 7 October 2022 up to 30 June 2024).

**Section 55B** has been added to the act to introduce zero-rating of the supply of locally manufactured garments made from locally grown cotton for a period of one year (from 1 July 2023 to 30 June 2024).

Amend **Section 86** to recognize fiscal receipts issued by devices other than EFDs.

Amends the exemption Schedule in Part I in order to exempt VAT on:

- ✓ Low-cost houses;
- ✓ Aircraft, aircraft engine, and aircraft parts; and
- ✓ Precious metals, gemstones, and other precious stones at refineries, buying stations, or at mineral and gem houses.

Concurrently, the Schedule is amended to align with the HS Codes with the current version of HS Codes as per the East African Community External Tariff Book, 2022.

## Our comments

The deferment of locally manufactured capital goods eliminates the discrimination which existed whereby the deferment was only on imported capital goods. This move will attract manufacturing of capital goods locally which can compete with imported goods and create employment opportunities along the process.

Whilst the government has good intention of supporting the growth of the aviation sector, the proposed amendment of exempting the VAT on lease of aircraft may affect the ability of operators of claiming input VAT on purchases. The amendment would have been beneficial to the operators if the proposal would have been to zero rate the lease of aircraft. This applies also to sellers of precious metals, gemstones and other precious stones to be sold to buying centers, mineral markets and gem houses designated by the Mining Commission.

## The Vocational Education and Training Act, CAP 82

The Act makes the following amendments:

Amends **Section 14** to reduce the Skills and Development Levy (SDL) rate from 4% to 3.5%.

**Section 16(1)** has been amended to remove the obligation of filing SDL returns from employers who are not required to pay the SDL.

**Section 19(3)** has been added to empower the Minister of Finance, in consultation with the Minister of Education to exempt persons from paying SDL.

## Our comments

This move is welcomed by employers as it continues to slowly bring down the cost of employment for employers in the context within which Tanzania is a relatively high-employment cost country.

## The Export Tax Act, CAP 196

**Section 3** has been amended by adding subsection (6) that waives the 80% export levy on raw hides exported outside the country by investors whose commercial undertaking in the Export Processing Zone (EPZ) is the export of meat. This measure intends to reduce the cost of exporting raw hides and making such products competitive in global markets.

## The Foreign Vehicle Transit Charges Act, CAP 84

The provisions of **Section 3(3)** have been amended to add that foreign registered vehicles from a country that charges rates higher than those charged in the EAC, SADC, and COMESA regions shall be charged at the rate applicable in that foreign country. This measure is intended to resolve the existing challenges in charging road user fee on trucks entering United Republic of Tanzania from other EAC countries and protect national interests.

## The Electronic and Postal Communications Act, CAP 306

The Finance Act repeals **section 164A** of the Electronic and Postal Communications Act, Cap. 306, that established the airtime levy. This measure will reduce the cost of airtime hence improving consumption and performance of the telecommunication industry.

*"...the proposed amendment of exempting the VAT on lease of aircraft may affect the ability of operators of claiming input VAT on purchases."*





## The Excise (Management and Tariff) Act, CAP. 147

The Act makes the following amendments:

Amends **Section 124 (2)** by changing the adjustment period of specific excise duty rates from every one year to every three years from the financial year 2023/24. This measure will assure stability and aid more accurate plans and budgets for businesses involved in such products.

Furthermore, the Act has adjusted specific excise duty rates for beer, tobacco products, and other non-petroleum products excluding wines, spirits, and sugar confectioneries. This measure intends to restore the value of specific excise duty rates, in line with the inflation rate and other key macroeconomic indicators.

Amends Sections **124 (5A) & (5B)** to introduce excise duty rate on imported hybrid passenger motor vehicles aged more than 5 years. This measure aims to discourage dumping and safeguard passenger safety.

Amends the Fourth Schedule to:

- ✓ Introduce excise duty rates on cement, hybrid vehicles, bituminous oil and other products made of bituminous oil, and electronic cigarette, vape products, and shisha.
- ✓ Increase excise duty on imported energy drinks.

Furthermore, the **Fourth Schedule** is further amended to align with the H.S Codes assigned to the excisable goods with new H.S Codes contained in the East African Community Customs External Tariff, 2002.

### Our comments

The market for electric vehicles in Tanzania is still at the infancy stage hence the proposed changes will incentivize and increase the country's uptake. Additionally, the use of natural gas will decrease air pollution as it is more environmentally friendly compared to other hydrocarbon fuel sources.

Further, the reduction of duty on locally ready to drink products reduces the threat to local industries which will in turn result in increased local production and employment opportunities.



*“the adjustment period of specific excise duty rates have been adjusted from every one year to every three years from the financial year 2023/24”*

## The Local Government Authorities (Rating) Act, CAP 289

**Section 6** of the Act has been repealed and replaced by the following:

- ✓ "6. An area declared as city council, municipal council, town council, or district council shall be a rateable area for the purposes of this Act".

The Finance Act amends **Section 7** by widening the scope of the rateable areas in District Councils to include in the list of exempt properties mud huts, thatched houses, mud houses and such other similar houses used for residential purposes. This measure intends to enhance equity in taxation.

**Section 16** has been amended to increase the property rate from TZS 12,000 to TZS 18,000 for an ordinary building and from TZS 60,000 to TZS 90,000 for each storey in a storey building.

Furthermore Section 16 has been amended to allow the allocation and remittance of 20% of the rates collected to the local government authorities in order to facilitate the administration and collection of the property tax.

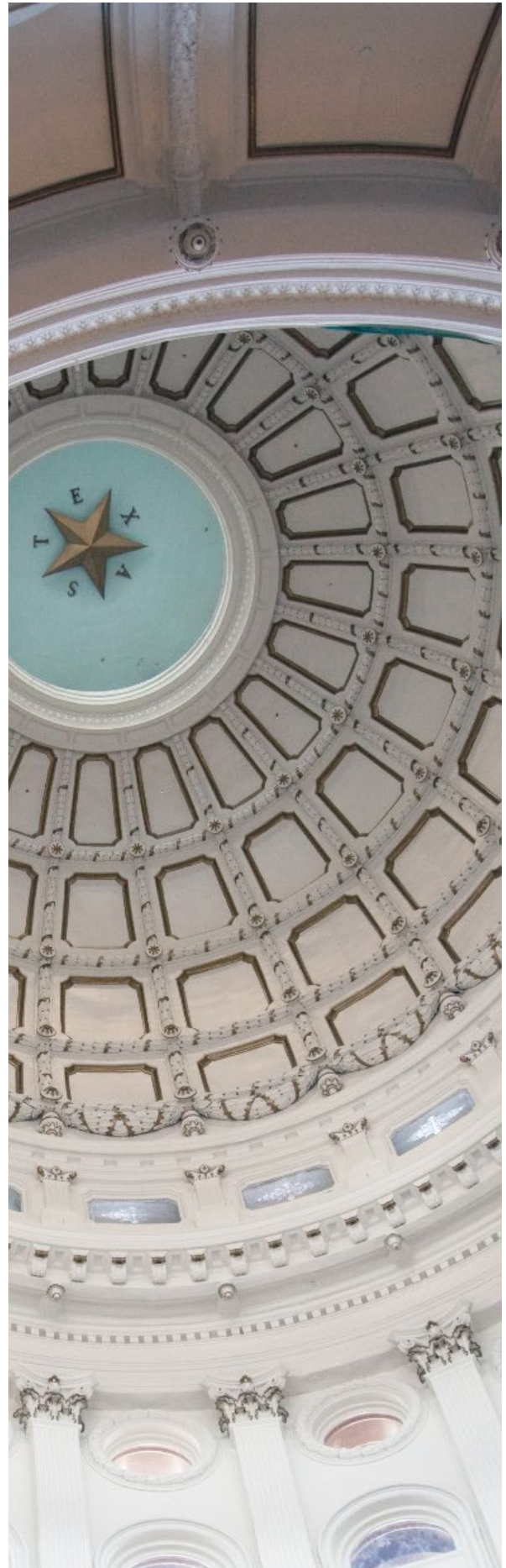
## Local Government Finance Act, CAP 290

- Similar to the amendments of the Local Government Authorities Act, CAP 289 enabling the remittance of 20% of the property rate, the Finance Act amends Sections 6(1) & 7(1) of this Act by allocating 20% of the property rate and land rent collected to enable Local Government Authorities to administer and collect the amounts effectively.
- **Section 9A** has been amended to include holders of electronic money issuance licenses among those that are required to pay service levy to the Minister responsible for local governments. This measure is intended to reduce administrative costs, as previously these entities were paying service levy in different C

### Our comments

The reforms to property tax have come in different forms and have been accepted with different views and perceptions. Over the years, we have seen the responsibility to collect property tax bounce back and forth between the TRA and the Local Government Authorities (LGAs).

For LGAs, property tax is a significant source of revenue used to implement various development projects such as environmental conservation, construction and waste management. However, the collection of the property tax by LGAs in the past did not meet the potential revenue collection due to various challenges. This includes, the lack of database of existing properties; difficulty in property valuation; shortage of transport means to facilitate property tax collection and enforcement; and lack of enough manpower. For this reform to work, it is important that the government strengthens coordination and improves the capacity for LGAs to collect property tax.





## The Gaming Act, CAP 41

The Act makes the following key amendments:

Amendment of **Section 3** by adding the definitions of:

- ✓ “commercial gaming undertaking” - means any gaming activity which is subject to gaming tax; and
- ✓ “gross gaming revenue” - means collective amount of wagering or staking placed by players minus the collective amount of winnings paid out to players

Amendment of **Section 13** by adding subsection (4) that imposes a condition that the Gaming Board of Tanzania shall issue licenses to companies in which not less than 5% of the applicant’s paid up share capital are owned by Tanzanian citizens. This measure is intended to increase the investments by Tanzanians in commercial gaming undertakings.

## The Road and Fuel Tolls Act, CAP.220

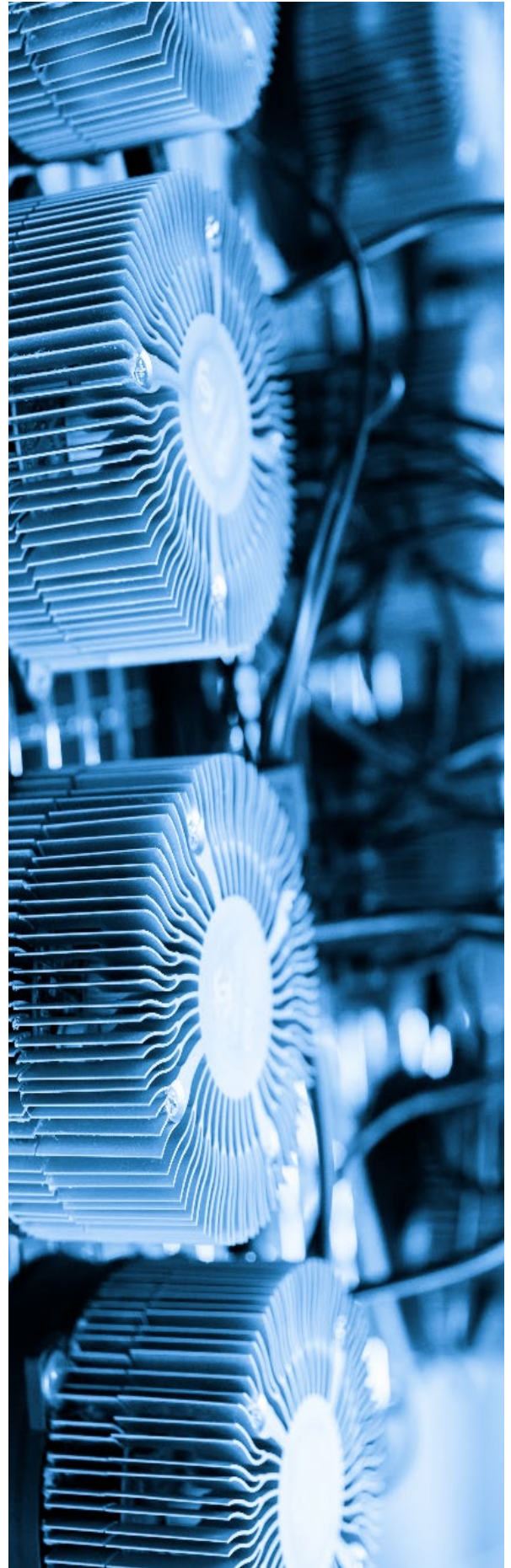
**Section 4A & the Second Schedule** of the Road and Fuel Tolls Act have been amended to reflect the increase in road and fuel tolls by TZS 100 per liter of petrol and diesel. This measure intends to ensure reliable sources of funds for the implementation of strategic projects.

## The Copyright and Neighboring Rights Act, CAP 218

**Section 48A** has been amended to include "Vinyl, Mini Disc, Compact Disc (CD), Digital Versatile Disk (DVD) and SD Memory to the list of items subject to a levy of 1.5%. The protection and enforcement of copyright is of crucial importance to the development of the creative/content industry. Widening the scope of items subject to this levy will enhance the enforcement of copyright.

## The National Payment Systems Act, CAP 437

**Section 46A** is amended by deleting the word “transactions” appearing in the marginal note by substituting for it the word “withdrawal”. This means that the levy shall be in respect of withdrawal transactions only. The introduction of this levy had triggered significant outcry from the public when it was initially established. Although this amendment addresses some of the concerns raised by the public, the withdrawal levy still poses a significant tax burden on low-income Tanzanians.



## Contacts for this alert

### **Festo Barthalome**

#### **Partner**

+255 222 169 168

[fbarthalome@deloitte.co.tz](mailto:fbarthalome@deloitte.co.tz)

### **Yonazi Mngumi**

#### **Associate Director**

+255 222 169 162

[ymngumi@deloitte.co.tz](mailto:ymngumi@deloitte.co.tz)

### **Samwel Ndandala**

#### **Associate Director**

+255 222 169 355

[sndandala@deloitte.co.tz](mailto:sndandala@deloitte.co.tz)

### **Jacquiline Matiko**

#### **Associate Director**

+255 222 169 052

[jmatiko@deloitte.co.tz](mailto:jmatiko@deloitte.co.tz)

### **Waziri Jumanne**

#### **Manager**

+255 222 169 014

[wjumanne@deloitte.co.tz](mailto:wjumanne@deloitte.co.tz)

### **Linda Lyimo**

#### **Senior Associate**

[lilyimo@deloitte.co.tz](mailto:lilyimo@deloitte.co.tz)

### **Yusuph Jackson**

#### **Associate**

[yujackson@deloitte.co.tz](mailto:yujackson@deloitte.co.tz)

### **Israel Mnyitafu**

#### **Associate**

[imnyitafu@deloitte.co.tz](mailto:imnyitafu@deloitte.co.tz)

## **Deloitte.**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more about our global network of member firms.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our global network of member firms and related entities in more than 150 countries and territories (collectively, the “Deloitte organization”) serves four out of five Fortune Global 500® companies. Learn how Deloitte’s approximately 411,000 people make an impact that matters at [www.deloitte.com](http://www.deloitte.com).

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte network”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication. No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.