

## Finance Bill, 2024 Insights

Balancing priorities for sustainable economic growth

MAY 2024

# Agenda

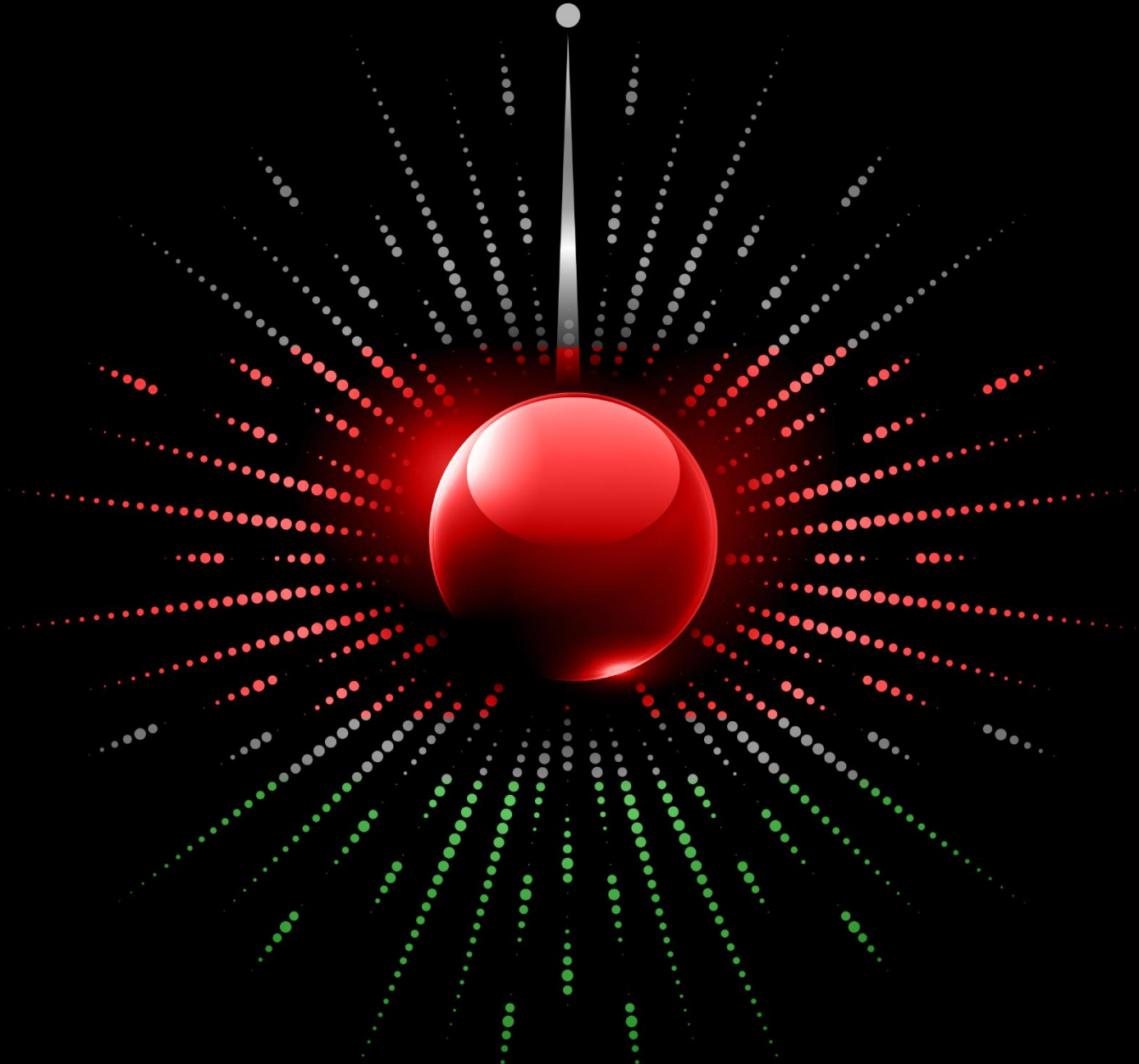
## Finance Bill Webinar

	Content	Facilitator
08: 30 a.m. – 08: 35 a.m.	Introductory remarks	Walter Mutwiri
08: 35 a.m. – 08: 55 a.m.	Income Tax proposals	Maurice Lugongo
08: 55 a.m. – 09: 05 a.m.		Maureen Kimamo
09: 05 a.m. – 09: 15 a.m.		Nelson Ngaira
09: 15 a.m. – 09: 25 a.m.	VAT	Kennedy Okoyo
09: 25 a.m. – 09: 40 a.m.	Excise duty & miscellaneous fees & levies	Peter Njenga
09: 40 a.m. – 09: 55 a.m.	Tax Procedures & miscellaneous proposals	Kandie Kimutai
09:55 a.m. – 10:55 a.m.	Panel discussion	
	Moderator	Fred Kimotho
	Panelists	Maurice Oray Lydia Ndirangu Patrick Chege
10:55 a.m. – 11:00 a.m.	Recap of key take aways	Walter Mutwiri

# Welcome remarks

## Walter Mutwiri

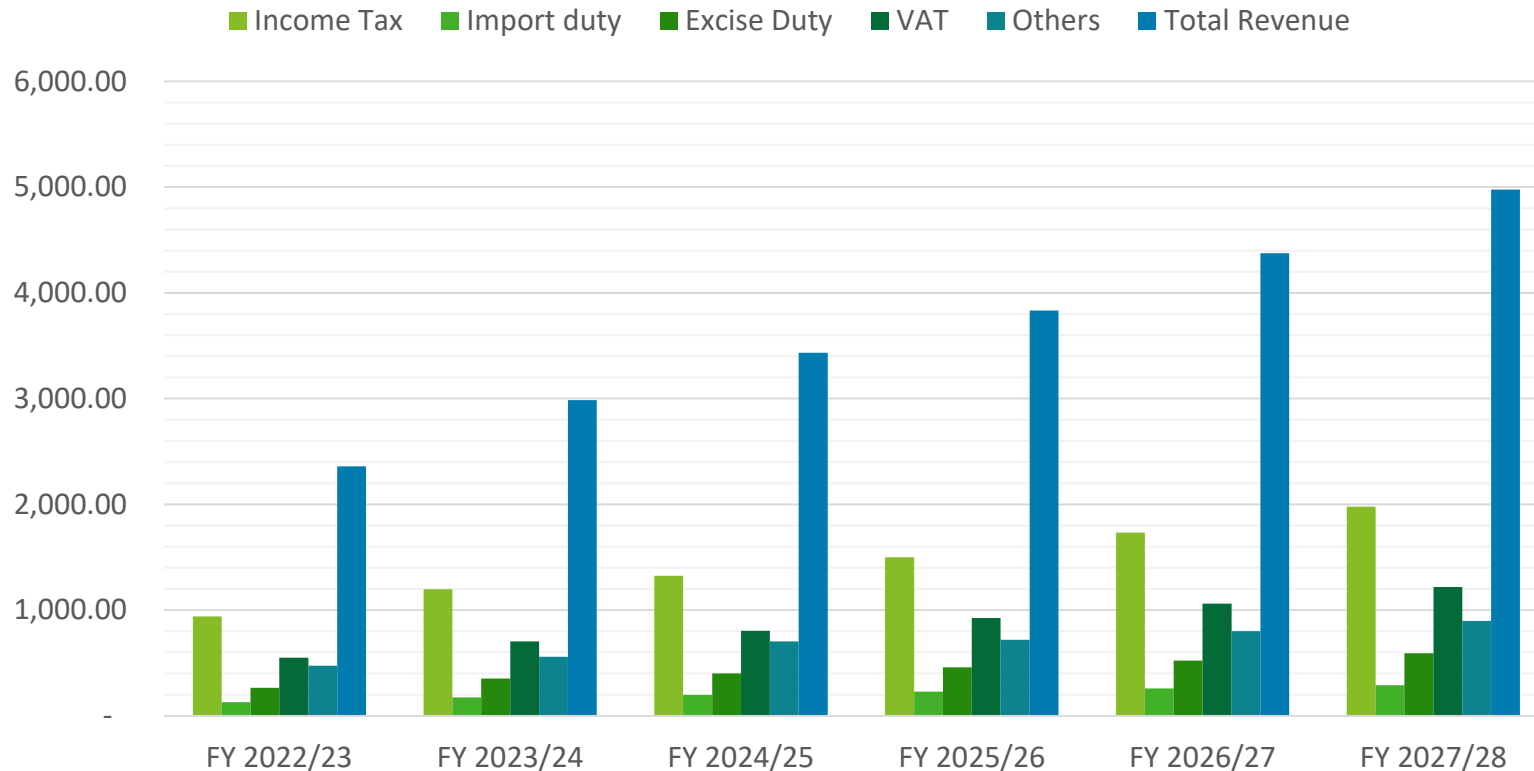
Partner - Tax & Legal, Deloitte East Africa



# Revenue Trends & Projections

## Overview

Trends in Tax Revenue (KES Billions)



Source: 2024 Budget Policy statement

### Revenue projections

- Revenue expected to **KES 3,435 billion** in FY24/25 from KES 3,070.6 billion in FY23/24 – **11.9% growth**
- Ordinary revenue is projected to be KES 2,948.1 in FY24/25 from the projected KES 2624.6 in FY23/24

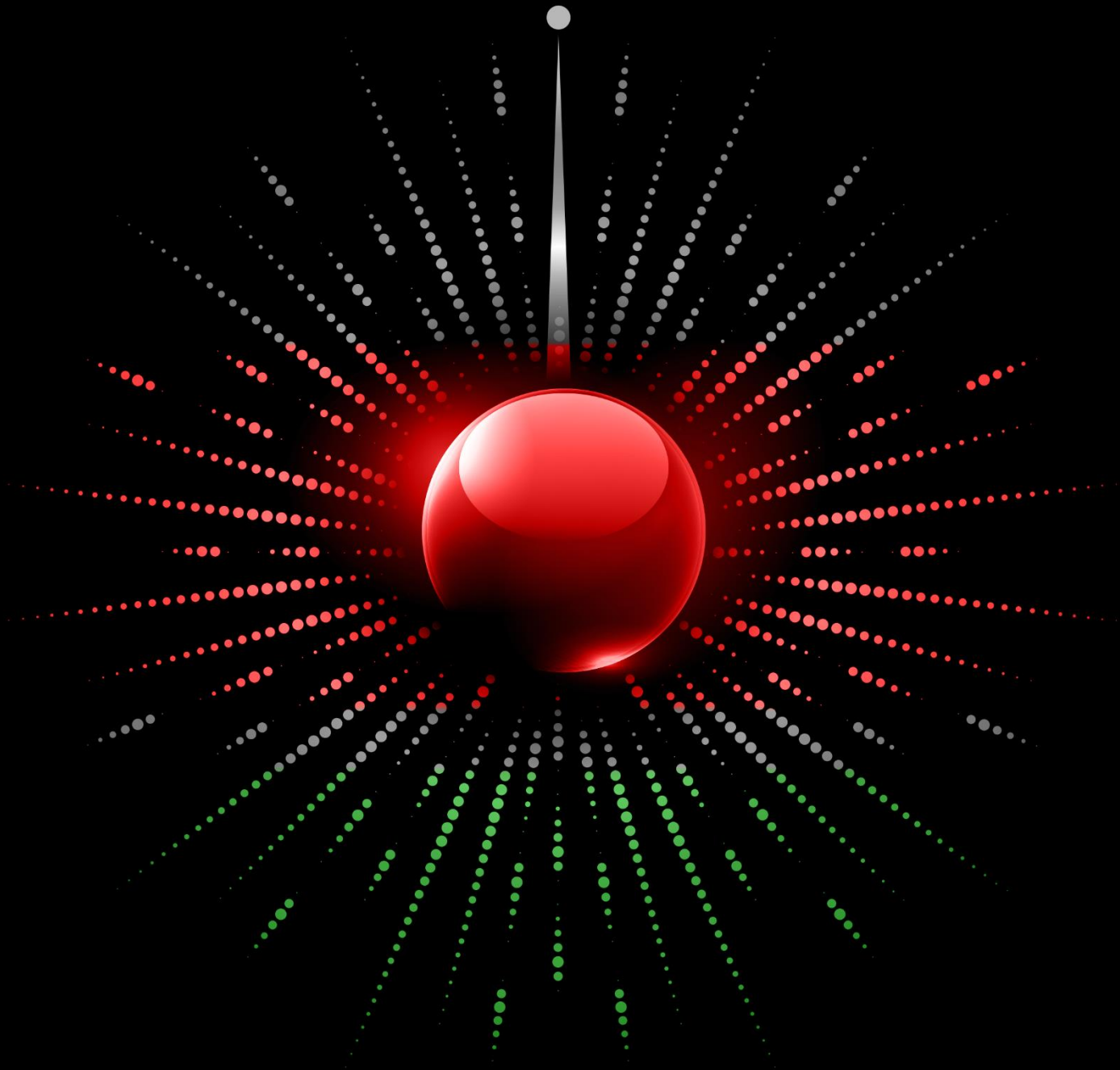
### Revenue projections

- Expenditure is projected at **KES 3,914.9 billion** in FY 24/25 from a projection of **KES 3,902.9 billion** in FY23/24 - **0.3% growth**
- Recurrent expenditure expected to be **KES 2,859.3 billion** (15.9%) and development expenditure at **KES 877.8 billion** (4.9% of the GDP)

### Deficit

- Fiscal deficit is projected at **KES 703.9 billion** (3.9% of the GDP) in FY24/25 compared to **KES 785 billion** in FY23/24 (4.9% of the GDP)
- Deficit to be financed by:
  - External financing of KES 326.1(1.8% of GDP)
  - Net domestic borrowing of KES 377.7 (2.1% of GDP)

# Income Tax proposals



# Income Tax – Corporate Income Tax

## Motor vehicle tax

- Introduction of motor vehicle tax at 2.5% of the value of the motor vehicle, to be collected by the insurer at the time of issuance of an insurance cover.
- The minimum to be paid shall be KES 5,000 and the maximum shall be KES 100,000.
- Certain vehicles like ambulances and those owned by the government shall be exempt from the tax.

**Effective date: 1 July 2024**

## Deduction of deferred foreign exchange losses

- Deduction of deferred foreign exchange losses realised by a person whose gross interest to a non-resident person exceeds 30% of EBITDA to be claimed within three years, down from five years.

**Effective date: 1 July 2024**

## Increased deductibility threshold for pension costs

- Increase of the threshold for deductibility of pension costs from **KES 240,000** p.a. (**KES 20,000** per month) to **KES 360,000** p.a. (**KES 30,000** per month).

**Effective date: 1 July 2024**

## Freight tax to be increased from 2.5% to 3%

- The Bill proposes to increase the freight tax from 2.5% to 3% on the income of non-resident shipowners or operators of ships or aircraft that call at any port or airport in Kenya.
- The tax shall apply only where there is no reciprocal arrangement or treaty.

**Effective date: 1 July 2024**

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# Income Tax – Corporate Income Tax

## DST to be replaced with significance economic presence tax (SEP tax)

- Digital service tax (DST) will be abandoned, and a new tax known as “Significant economic presence tax (SEP tax)” introduced.
- SEP tax shall apply on the income derived by a non-resident from the provision of services through a digital marketplace in Kenya.
- The taxable profit of a person liable to pay SEP tax shall be deemed to be 20% of the gross turnover. The deemed profit shall be taxed at 30%. This effectively means that SEP tax shall apply at 6% of the gross turnover, up from the current DST rate of 1.5%.
- Persons subject to SEP tax shall be required to submit a tax return and pay the tax to KRA on or before the 20th day of the month following the end of the month in which the service was rendered.

**Effective date: 1 January 2025**

## Proposed changes to the capital gains tax regime

- The CGT exemption on property transfers within a Special Economic Zone (SEZ) shall be limited to transfers made by licensed SEZ entities.
- A reduced CGT rate of 5% instead of 15% shall apply where the Nairobi International Financial Centre Authority (NIFCA) certifies that:
  - A firm has invested at least KES 3 billion in one or more entities in Kenya within two years; and
  - The transfer of the investment is made after 5 years of the date of the investment.

**Effective date: 1 July 2024**

# Income Tax – Corporate Income Tax

## Capital allowances/ deductions

- **Investment allowance on spectrum license**
  - The Bill is proposing an introduction of investment allowance at 10% p.a. on the purchase or acquisition of a spectrum license by a telecommunication operator. The allowance on spectrum license purchased or acquired before 1 July 2024 shall be restricted to the unamortised portion over the remaining useful life.
- **Repeal of Section 133 (6)**
  - The Bill proposes to delete Section 133(6) of the ITA, which is a transitional provision that allowed Paragraph 24E of the repealed Second Schedule to the ITA to continue to apply. Paragraph 24E prescribed a 150% allowance on capital expenditure relating to bulk storage and handling facilities in support of the SGR operations.
- **Diminution allowance**
  - The Bill is proposing a re-introduction of diminution allowance on small assets at 100%.

**Effective date: 1 July 2024**

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# Income Tax – Corporate Income Tax

## Removal of tax exemptions on certain incomes

- The Bill proposes to delete income tax exemptions relating to the following incomes:
  - Interest income accruing from any listed bonds, notes or other similar securities, issued on or after 1 July 2024, with maturity periods of at least three years used to raise funds for infrastructure and other social services.
  - Interest income accruing from new listed bonds, notes or other similar securities, issued on or after 1 July 2024, used to raise funds for projects and assets defined under Green Bonds Standards and Guidelines.
  - The income of an amateur sporting association.
  - The income of any registered trust scheme.
  - Income or principal sum of a registered family trust.
  - Any capital gains relating to the transfer of title of immovable property to a family trust.
  - Income of the National Housing Development Fund (NHDF) ***\*This was redundant, as housing levy was changed from a contribution to a tax\****
  - The amount withdrawn from NHDF to purchase a house by a contributor who is a first-time home-owner ***\*This was redundant as outlined above\****
  - Income earned by an individual registered under the Ajira Digital Program for the three years beginning 1st January 2020 ***\*This was redundant\****

**Effective date: 1 July 2024**

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# Income Tax – Corporate Income Tax

## Other proposed changes

- **Exemption of non-residents that implement fully funded projects** – Income of non-residents involved in the implementation of projects fully-funded by grants under an agreement between the government and a development partner shall only be exempt to extent the income is directly related to the project. Any other income shall be taxable.
- **Repeal of Section 34** – Section 34 will be repealed and replaced with provisions indicating that the tax rates shall be as specified in the Third and Ninth Schedules. This may affect the taxation of qualifying interest and dividend income.
- **Accounting year-end change** – The Commissioner shall be deemed to have allowed an application to change the accounting year-end if he fails to issue a decision within six months from the date of receipt of the said application.
- **Repeal of Section 72C** – The Bill proposes to repeal Section 72C of ITA on penalty for underpayment of instalment tax. This effectively means that the penalty provisions under the Tax Procedures Act will apply.

**Effective date: 1 July 2024**

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# Income Tax – Withholding Tax

## Payments through a digital marketplace to attract WHT

- Owners or operators of digital marketplaces or platforms through which payments are made to withhold tax on the payments.
- Payments to residents will attract WHT at 5%, while payments to non-residents will attract WHT at 20%.

Effective date: 1 July 2024

## Supply of goods to public entities to attract WHT

- Public entities shall be required to account WHT on payments for supply of goods.
- The WHT shall apply at 3% for residents and 5% for non-residents.
- Income received by a person from a public entity for the supply of goods shall be deemed to be the income of the person for the year of income in which the payment is received.

Effective date: 1 July 2024

## “Royalty” definition expanded

- The expanded definition of royalty captures any software-related payment to be a royalty, therefore subject to WHT.

Royalty shall include: “any software, proprietary or off-the-shelf, whether in the form of licence, development, training, maintenance or support fees including the distribution of the software”.

Effective date: 1 July 2024

## Scope of digital content monetization expanded

- The definition of digital content monetization in the ITA to be expanded to include the offering, for payment electronically through any medium or channel, of: (i) creative works; (ii) creating or sharing of the material; or (iii) any other material that is not exempt under the ITA.
- These additional items would therefore attract WHT at 5% for residents and 20% for non-residents.

Effective date: 1 July 2024

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# Income Tax – Withholding Tax

## WHT on interest accruing from infrastructure bonds issued after 30 June 2024

- The Bill proposes to introduce WHT on interest payable to resident persons on any listed bonds, notes or other similar securities, issued on or after 1 July 2024, with maturity periods of at least three years used to raise funds for infrastructure and other social services.
- The resident WHT rate shall be 5% while the non-resident rate shall be 15%.

**Effective date: 1 July 2024**

## Threshold for WHT on service fees deleted

- The Bill proposes to remove the monthly threshold of KES 24,000 for applicability of WHT on management, professional or training fees to residents.
- The threshold has, however, been retained in section 35, which is the section that requires the payer to deduct WHT.

**Effective date: 1 July 2024**

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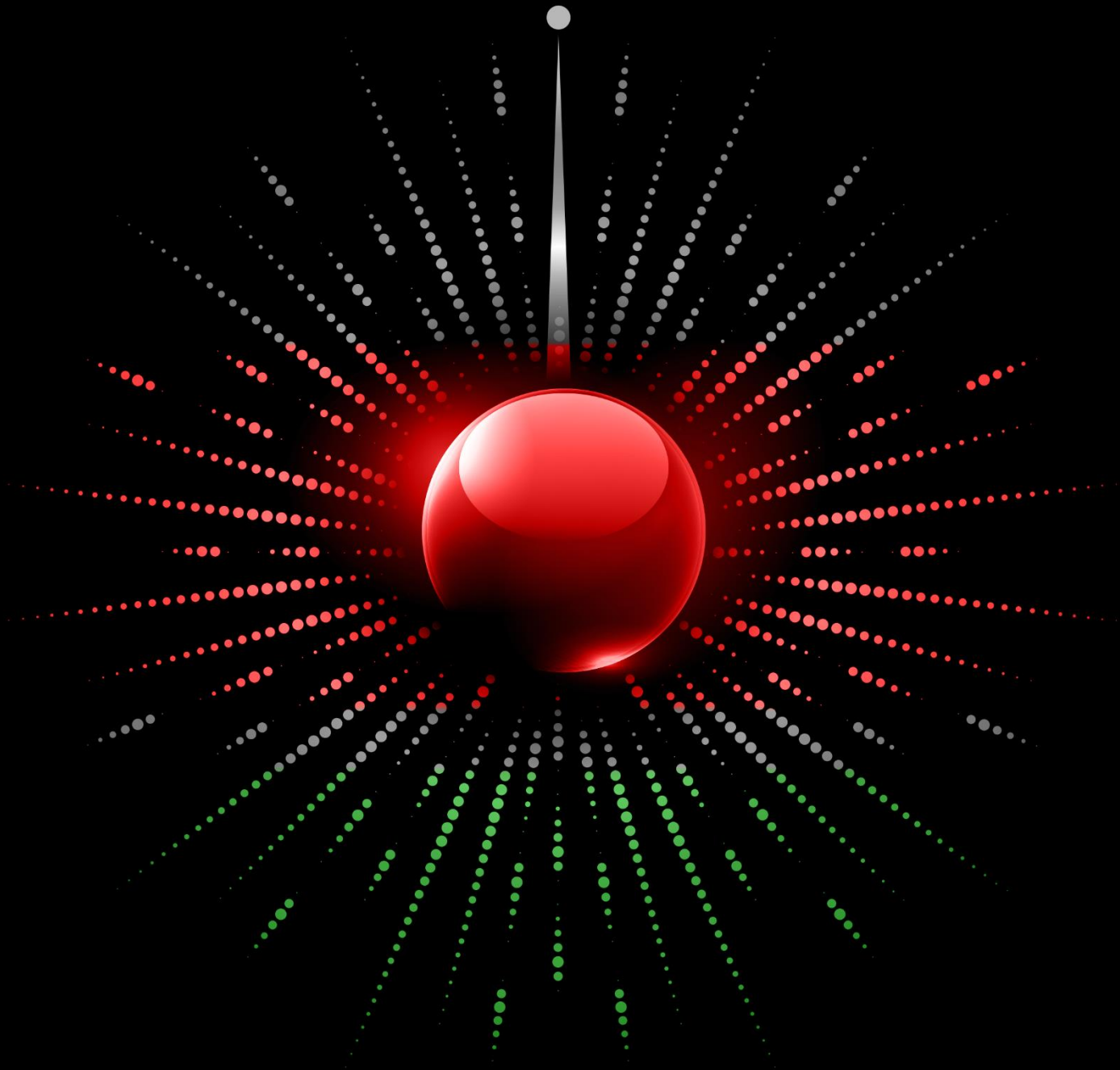
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# Personal Income Tax Proposals



# Personal Income Tax

## Additional tax-deductible contributions against personal income

- Introduce the following allowable deductions under section 15 (2) of the ITA:
  - Contributions made to the **Social Health Insurance Fund (SHIF)** in accordance with section 27(a) and (b) of the Social Health Insurance Act, 2023;
  - In the case of an employee, the amount deducted as an **Affordable Housing Levy**, and;
  - A contribution to a **post-retirement medical fund** subject to a monthly limit of ten thousand shillings.

Effective date: 1 July 2024

## Increase of allowable deductions for contributions made to registered pension or provident funds

- Increase the maximum allowable pension or provident fund deduction against an employee's income from the current **KES 240,000 per year** (KES 20,000 per month) to **KES 360,000 per year** (KES 30,000 per month) for registered pension funds, provident funds and individual retirement funds.

Effective date: 1 July 2024

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# Personal Income Tax

## Increase on the non-taxable limit of per diem

- Increase the non-taxable limit of amounts received by an employee as payment of subsistence, travelling, entertainment or other allowance from the current KES 2,000 per day to 5% of monthly gross earnings of the employee per day **where the employer has a policy on payment and accounting for these allowances.**

Effective date: 1 July 2024

## Increase on tax-exempt threshold for meals provided to employees

- Increase the non-taxable value of meals served to employees in a canteen or cafeteria operated or established by the employer or provided by a third party who is a registered taxpayer from **KES 48,000** per year to **KES 60,000** per year.

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# Personal Income Tax

## Introduction of tax exemption on reimbursements to public officers

- Tax exemption for amounts paid or granted to public officers as reimbursements for expenditure incurred for the purpose of performing official duties notwithstanding the ownership or control of the assets purchased.
- This amendment was previously proposed in the Finance Bill, 2023 but was dropped after public participation.

Effective date: 1 July 2024

## Increase in the tax-exempt threshold for non-cash benefits

- Amend Section 5(2)(b) of the ITA to increase the tax-exempt threshold for non-cash benefits that are not expressly provided for in the ITA from the current **KES 36,000** per year to **KES 48,000** per year.
- The current threshold has not been revised since 2006 and therefore is not reflective of the increasing cost of living.

Effective date: 1 July 2024

## Increase in owner-occupier mortgage interest deduction

- Amend Section 15(3)(b) of the ITA to increase the mortgage interest deduction from the current **KES 300,000** per year to **KES 360,000** per year.

Effective date: 1 July 2024

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# Personal Income Tax

## Tax exemption on retirement benefits from a Pension or provident fund

- Delete the current tax exemption for monthly pension payments to persons aged 65 years or above and replace it with an exemption of pension benefits from a registered pension fund, registered provident fund, registered individual retirement fund, or National Social Security Fund made to an individual upon attainment of the retirement age determined in accordance with the rules of the fund:
- Provided that this exemption shall also apply where a person;
  - Retires prior to attaining the retirement age due to ill health; or
  - Withdraws from the fund twenty years after registering as a fund member.

**Effective date: 1 July 2024**

## Amendment of the definition of registered individual retirement, provident and pension funds

- Amend the definitions of a registered individual retirement fund under section 2(b) of the ITA to remove the requirement for registration with the Commissioner.
- Therefore, an individual retirement fund will be considered registered for tax purposes if its trust deed has been registered with the Retirement Benefits Authority (RBA).
- The Bill further proposes to amend the definitions of "registered pension fund" and "registered provident fund" under the same section by removing the requirement that they be registered with the Commissioner.

**Effective date: 1 July 2024**

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# Personal Income Tax

## Registration of remote working employees for Tax PINs

- Introduce paragraph 16 in the First Schedule to the Tax Procedures Act to provide that employees working remotely outside Kenya for Kenyan employers would be eligible to register for Tax PINs.
- This proposal aims to align the tax legislation with the changing global mobility trends.

**Effective date: 1 July 2024**

## Repeal of exemption on income earned under Ajira Digital Program

- Delete the tax exemption on income accrued by individuals registered under the Ajira Digital program.
- Currently, income earned by individuals registered under the Ajira Digital Program is exempt from tax for three years, effective 1<sup>st</sup> January 2020, provided that the individual makes payment of a registration fee of ten thousand shillings per annum.

**Effective date: 1 July 2024**

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# Personal Income Tax

## Removal of Affordable Housing relief

- Remove the Affordable Housing relief from the ITA.
- The relief had earlier been introduced through the Tax Laws Amendment Act under the affordable housing agenda by the previous government.

Effective date: 1 July 2024

## Removal of insurance relief on health policies and NHIF contributions

- Remove the insurance relief on premiums paid towards health policies and the National Health Insurance Fund (NHIF).
- The Bill also removes the relief on post-retirement medical fund contributions.

Effective date: 1 July 2024

## Deletion of definition of wife's income and income rate

- Delete the definition of the wife's employment income, professional income and self-employment income and their rates.

Effective date: 1 July 2024

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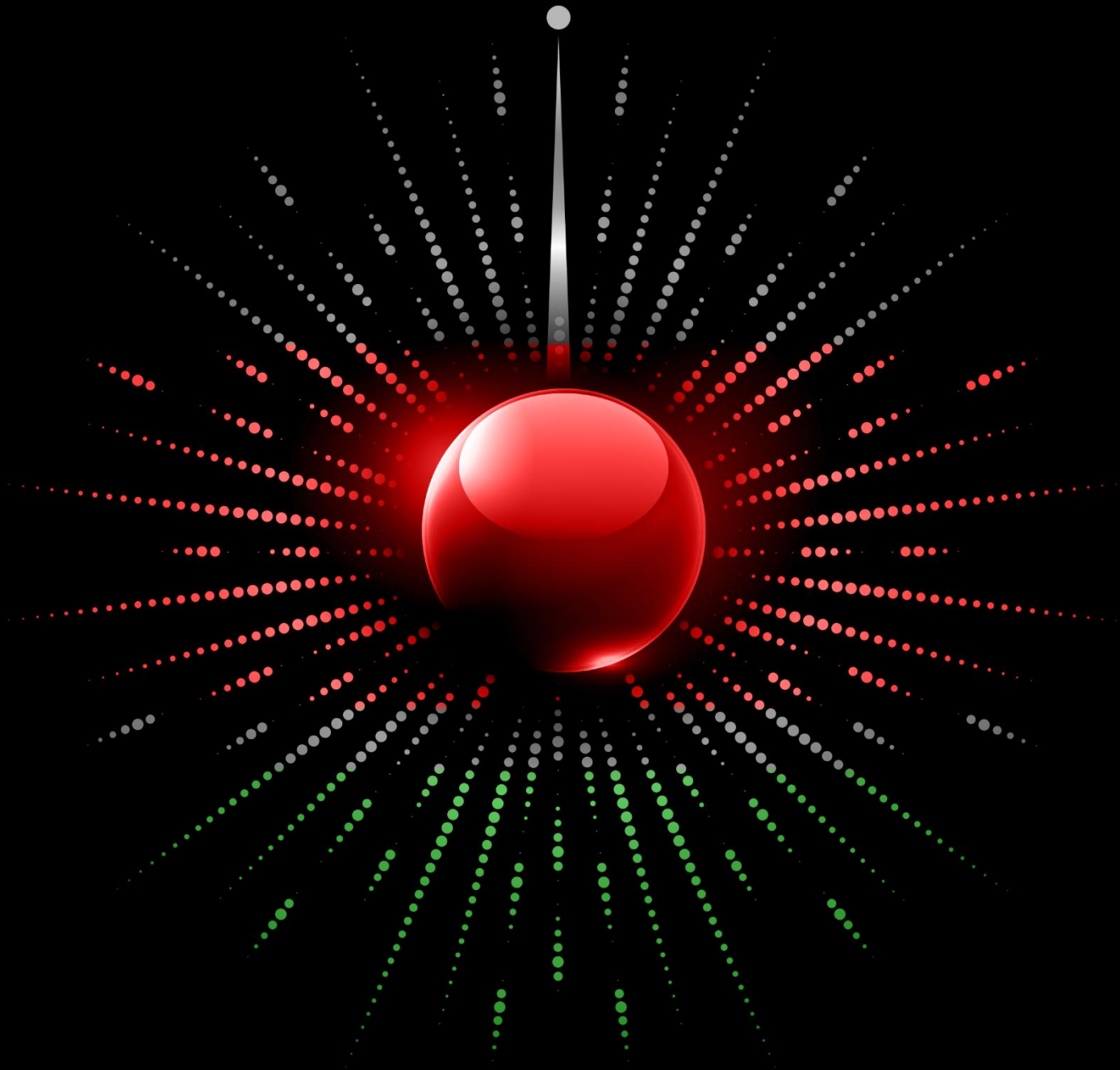
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# Transfer Pricing Proposals



# Transfer Pricing

## Definition of Related Person

- Delete the definition of related person under Section 2 and substitute it with the following definition:

*A related person in the case of two persons means either person who participates directly or indirectly in the management, control, or capital of the business of the other person;*

- Any other person who participates directly or indirectly in the management, control or capital of the business of the two persons
- An individual who:
  - a) Participates directly or indirectly in the management, control or capital of the business of the two persons and;
  - b) Is associated with the two persons by marriage, consanguinity, or affinity, and the two persons participate in the management, control, or capital of the business of the individual.

**Effective date: 1 July 2024**

## Introduction of APAs

- Introduce APAs under Section 18G of the Income Tax Act.
- An APA allows taxpayers to agree on the appropriate criteria for determining the arm's length for future-controlled transactions over a fixed period. The Bill proposes a period not exceeding five years.
- Where the Commissioner determines that the APA was entered based on misrepresentation of facts, the Commissioner is at liberty to declare the agreement null and void from the date of the agreement.

**Effective date: 1 January 2025**

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# Transfer Pricing

## Minimum top up tax

- Introduce a minimum top-up tax payable by a covered person whose combined effective tax rate in the year of income is less than 15%.
- **Definition of covered person:** “A resident person or permanent establishment in Kenya that is part of a multinational group with a consolidated annual turnover of 750M Euros or more in at least two of the four years of income immediately preceding the tested year of income.”

Effective date: 1 January 2025

## Calculation of the minimum top up tax

- Combined effective tax rate is:  
$$\frac{\text{The sum of all the adjusted covered taxes}}{\text{The sum of all net income or loss for the year of income}} \times 100$$
- The excess profit will be calculated as net income or loss – (10% of employee costs + 8% of tangible assets).
- **Minimum top up tax = (15% - combined effective rate) \* Excess profit.**

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# Transfer Pricing

## Covered taxes

- Adjusted covered taxes include:
  - Taxes recorded in the financial accounts of a constituent entity for the income,
  - Profits or share of the income or profits of a constituent entity where the constituent entity owns an interest and includes taxes on distributed profits, deemed profit distributions under this Act subject to such adjustments as may be prescribed.
- Net income or loss is defined as:
  - Net income or loss for the year after deducting the sum of losses of a covered person as determined under the recognised accounting standards in Kenya

**Effective date: 1 January 2025**

## Exclusions

- Exemptions:
  - Public entities not engaged in business,
  - Entities whose income is exempt under paragraph 10 of the first schedule,
  - Sovereign wealth funds,
  - Pension funds and assets of the pension fund
  - Real estate investment vehicle that is an Ultimate Parent Entity (UPE)
  - Non-operating investment holding company
  - Intergovernmental or supranational organisations

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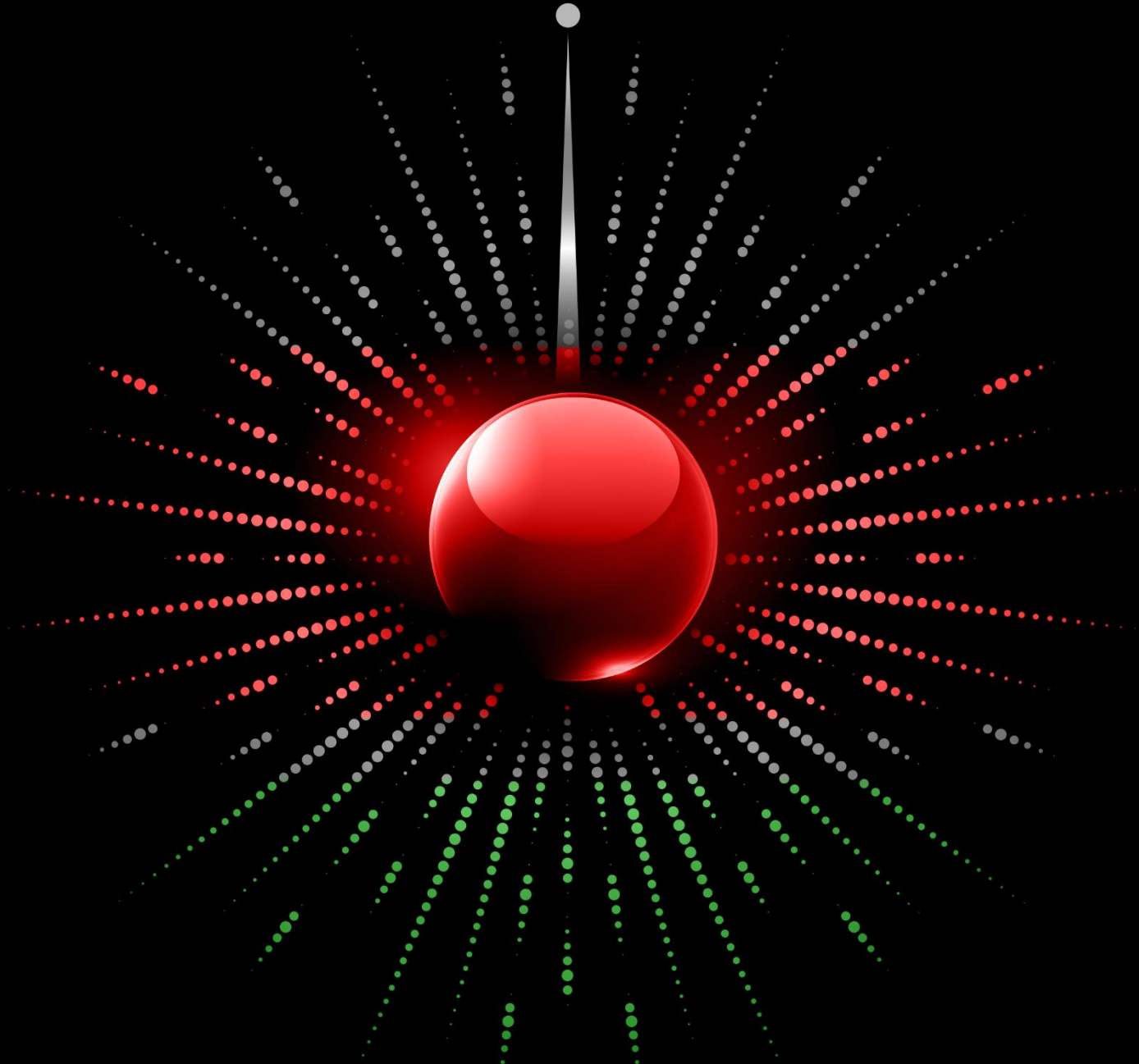
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# Value Added Tax Proposals





# Value Added Tax

## Definition of a tax invoice

- Expand the definition of a 'tax invoice' to include an electronic tax invoice issued in accordance with Section 23A of the Tax Procedures Act.

Effective date: 1 July 2024

## Place of supply for services provided by non-residents

- Amends Section 8(2) of the VAT Act by introducing the word "and" at the end of the opening sentence.

Effective date: 1 July 2024

## Time of supply for exported goods

- Defines 'time of supply for exported goods' to be the time when the registered person is in possession of the required export confirmation documents.

Effective date: 1 July 2024

## Offset and refund of overpaid withholding VAT

- Deletes Section 17(5)(c) of the VAT Act, which provides that refunds of excess withheld VAT may be applied against any tax payable under the VAT Act or any other written law or is due for refund pursuant to Section 47(4) of the TPA.

Effective date: 1 July 2024

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# Value Added Tax

## Reduction of timeline for lodging VAT refund under the VAT Act

- Deletes Section 17(5)(d) of the VAT Act, which requires registered taxpayers to lodge a VAT refund claim within twenty four months.

Effective date: 1 July 2024

## Removal of VAT refunds for manufacturers providing taxable supplies to official aid-funded projects

- Deletes Section 17(5)(e) of the VAT Act, which allows registered manufacturers to apply for a refund of excess input VAT incurred in providing taxable supplies to official aid-funded projects.

Effective date: 1 July 2024

## Amendment of input tax apportionment ratio provisions

- Abolishes the 90% - 10% input tax apportionment rule.

Effective date: 1 July 2024

## Removal of input tax deduction with respect to supplies to official aid funded projects

- Removes the input tax deduction relating to supplies to official aid-funded projects.

Effective date: 1 July 2024

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# Value Added Tax

## Clarification of refund of tax on bad debts

- Deletes Section 31(1d) and (1e) of the VAT Act, which requires bad debt refunds to be paid back to the Commissioner within sixty days from the date of debt recovery, failure to which an interest of 2% per month applies.
- The deleted subsection is duplicated under Section 31(2) and 31(3).

**Effective date: 1 July 2024**

## Increase in VAT registration threshold

- Revises the VAT registration threshold from KES 5 million to KES 8 million.

**Effective date: 1 July 2024**

## Amendment of input tax apportionment ratio provisions

- The VAT status of betting, gaming, and lottery services will change from exempt to standard, rated at 16%.

**Effective date: 1 July 2024**

## VAT exemption on Transfer of business as a going concern

- Transfer of business as a going concern (TOGC) to be VAT exempt.

**Effective date: 1 July 2024**

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# Value Added Tax

## Change of VAT status of bread

- VAT status of “gluten bread” and “unleavened bread” to change from exempt to standard rated at 16%.
- VAT status of “ordinary bread” to change from zero-rated to standard-rated at 16%.

Effective date: 1 July 2024

## Change of VAT status of some ‘financial services’

- VAT status of the following financial services to change from exempt to standard-rated:
  - Issuing of credit and debit cards;
  - Telegraphic money transfer services;
  - Foreign exchange transactions, including the supply of foreign drafts and international money orders;
  - Cheque handling, processing, clearing and settlement, including special clearance or cancellation of cheques;
  - Issuance of securities for money, including bills of exchange, promissory notes, money and postal orders;
  - The assignment of a debt for consideration;
  - The provision of the above financial services on behalf of another on a commission basis.

## VAT on ‘insurance premiums’

- The Bill deletes Paragraph 2, which exempts insurance and reinsurance services, excluding the following:
  - a) Management and related insurance consultancy services;
  - b) Actuarial services; and
  - c) Services of insurance assessors and loss adjusters.
- The Bill introduces a new Paragraph 2 that only exempts “**Insurance and reinsurance premium**”.

Effective date: 1 July 2024

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# Value Added Tax

Proposed change of status from exempt to standard rated at 16% (Effective date: 1 July 2024)

Item description (Goods)		Item description (Goods)	
1	Aeroplanes and other aircraft, of an unladen weight exceeding 2,000kg but not exceeding 15,000kg of tariff number 8802.30.00	8	Pressure sensitive adhesive of tariff number 3506.91.00.
2	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles of tariff number 8802.60.00	9	Plain polythene film/LPDE of tariff number 3921.19.10
3	All goods of Chapter 88 except <i>Aircraft parts of Chapter 88 which are still exempt from VAT</i> )	10	PE white 25-40gsm/release paper of tariff number 4811.49.00
4	Goods imported or purchased locally for use by the local film producers and local filming agents, upon recommendation by the Kenya Film Commission	11	ADL 25-40gsm of tariff number 5603.11.00
5	Direction-finding compasses, instruments and appliances for aircraft.	12	Specially designed locally assembled motor vehicles for transportation of tourists, purchased before clearance through Customs by tour operators upon recommendation by the competent authority responsible for tourism promotion.
6	Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks.	13	Plant, machinery and equipment used in the construction of a plastics recycling plant.
7	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.	14	Musical instruments and other musical equipment, imported or purchased locally, for exclusive use by educational institutions, upon recommendation by the Cabinet Secretary responsible for Education.
		15	Taxable goods supplied to persons that had an agreement or contract with the Government prior to 25th April 2020 and the agreement or contract provided for exemption from value added tax

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# Value Added Tax

Proposed change of status from exempt to standard rated at 16% (Effective date: 1 July 2024)

<i>Item description (Goods)</i>	
16	Such capital goods the exemption of which the Cabinet Secretary may determine to promote investment in the manufacturing sector.  Provided that the value of such investment is not less than two billion shillings.

<i>Item description (Goods)</i>	
1	Hiring, leasing and chartering of aircrafts excluding helicopters of tariff numbers 8802.11.00 and 8802.12.00
2	Services imported or procured locally for use by the local film producers or local film agents upon recommendation by the Kenya Film Commission, subject to approval by the Cabinet Secretary for the National Treasury.
3	Taxable services for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon the recommendation by the Cabinet Secretary responsible for matters relating to recreational parks.
4	Taxable services for direct and exclusive use for the construction of specialized hospitals with accommodation facilities upon recommendation by the Cabinet Secretary responsible for health, who shall issue guidelines for the criteria to determine the eligibility for the exemption

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# Value Added Tax

Proposed change of status from zero-rated to standard-rated at 16%  
(Effective date: 1 July 2024)

<i>Item description (Goods)</i>	
1	Transportation of sugarcane from farms to milling factories
2	The supply of locally assembled and manufactured mobile phones.
3	The supply of electric bicycles.
4	The supply of solar and lithium-ion batteries.
5	The supply of electric buses of tariff heading 87.02.
6	Inbound international sea freight offered by a registered person.

Proposed change of status from zero-rated to exempt (Effective date: 1 July 2024)

<i>Item description (Goods)</i>	
1	All inputs and raw materials whether produced locally or imported, supplied to manufacturers of agricultural pest control products upon recommendation by the Cabinet Secretary for the time being responsible for agriculture
2	Agricultural pest control products.
3	The supply of motorcycles of tariff heading 8711.60.00
4	Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel)

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# Value Added Tax

Proposed change of status from standard-rated at 16% (Effective date: 1 July 2024)

<i>Item description (Goods)</i>	
1	Inputs and raw materials used in the manufacture of mosquito repellent on recommendation by the Cabinet Secretary responsible for matters relating to health.
2	Mosquito repellent.
3	Tea packaging material.
4	Micronutrients, foliar feeds and bio-stimulants of Chapter 38.
5	All goods including material supplies, equipment, machinery and motor vehicles, for official use by the National Intelligence Service.

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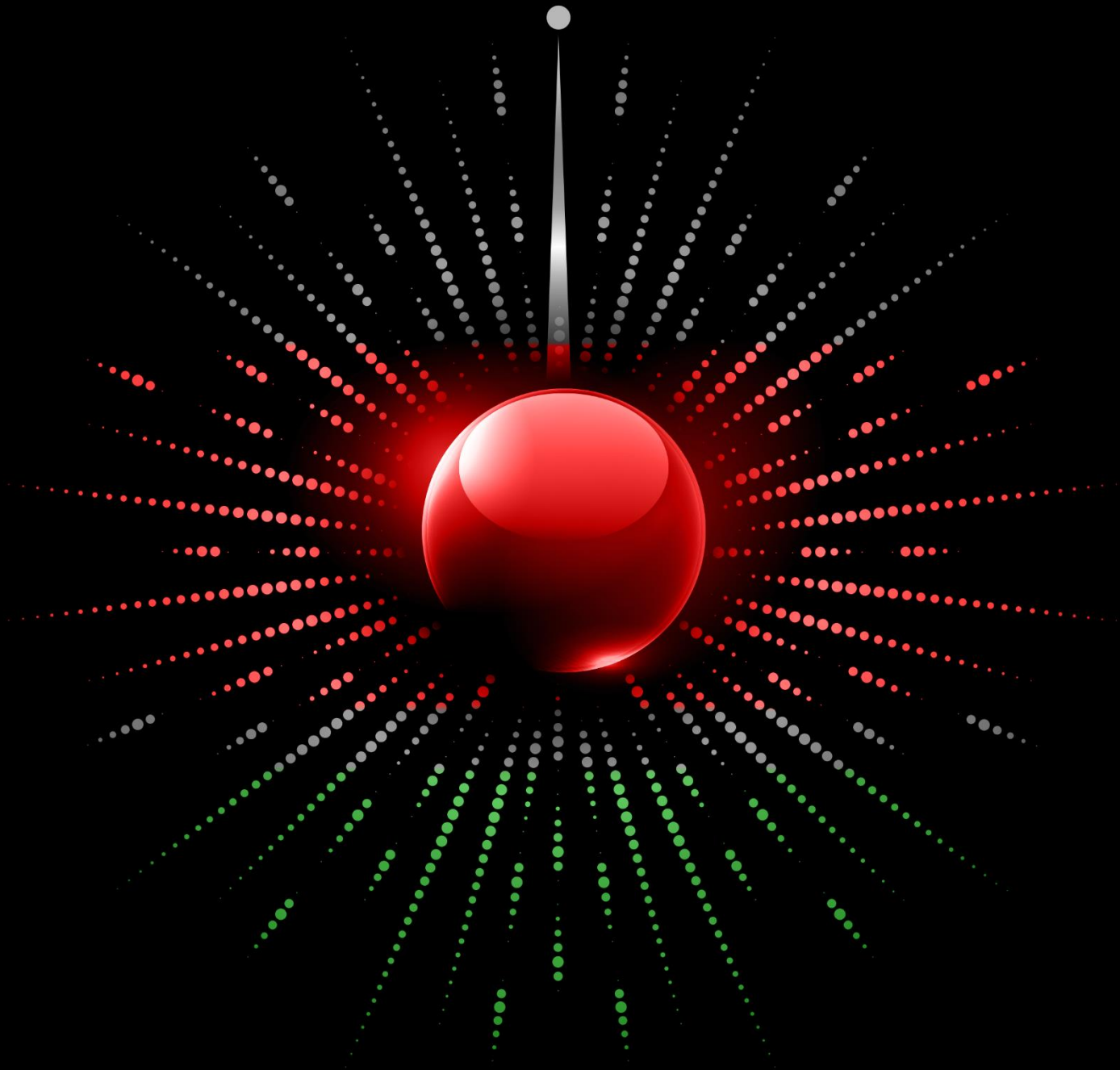
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# Excise Duty Proposals



# Excise Duty

## Clarification on tariff classification of excisable goods

- Excisable goods to be classified in accordance with EAC CET.

**Effective date: 1 July 2024**

## Excise duty on excisable services offered by non-residents

- Introduction of excise duty on services offered in Kenya by a non-resident through a digital platform.
- Payment to be made by the non-resident person.

**Effective date: 1 July 2024**

## Excise duty remission on spirits

- Remission of excise duty on spirits made from sorghum, millet, cassava or other agricultural products (excluding barley) grown in Kenya.
- Duty Remission Regulations should be amended to include spirits.
- Remission on beer currently applies at 80%.

**Effective date: 1 July 2024**

## Timeline for issuing excise duty license

- Commissioner to respond to license applications within 14 days.

**Effective date: 1 July 2024**

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# Excise Duty

## Payment of excise duty by manufacturers of alcoholic beverages

- Manufacturers of alcoholic beverages to remit excise duty within five working days upon removal from the stockroom.
- Currently, payment is remitted within **24** hours.

**Effective date: 1 July 2024**

## Removal of relief excise duty on raw materials

- Remove the relief of excise duty on raw materials used to manufacture excisable goods and purchase of bulk data by licenced internet data providers for resale.

**Effective date: 1 July 2024**

## Removal of excise duty on excisable goods originating from the EAC

- Imported cartons, boxes, and cases of corrugated paper or paper board; imported folding cartons, boxes, and cases of non-corrugated paper or paper board; imported skillets and free-hinge lid packets.
- Imported eggs of tariff heading 04.07.
- Imported onions.
- Imported potatoes, potato crisps and potato chips.

**Effective date: 1 July 2024**

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# Excise Duty

## Amendment of excise duty on styrene acrylic

- Replacing the words 'imported Emulsion Styrene Acrylic' with 'styrene-acrylonitrile' (SAN) copolymers.
- Align description with EACCET.

**Effective date: 1 July 2024**

## Increase of excise duty on various goods and services

- Telephone and internet data from 15% to 20%
- Fees charged for money transfers by banks, money transfer agencies and other financial service providers from 15% to 20%
- Fees charged for money transfers by cellular phone service providers or licensed payment service providers from 15% to 20%
- Betting (excluding horse racing), gaming, price competition and lottery (excluding charitable lotteries) from 12.5% to 20%
- Products containing nicotine or nicotine substitutes from KES 1,595 per Kg to KES 2,000 per Kg
- Liquid nicotine for electronic cigarettes from KES 70 per millilitre to KES 100 per millilitre

**Effective date: 1 July 2024**

## Introduction of excise duty on various goods and services

- Coal at 5% or KES 27,000 per metric ton.
- Vegetable oils of Tariff Headings 1511, 1512, 1515 and 1517 at 25%.
- Advertisements via the internet and social media on alcoholic beverages, betting, gaming, lotteries and prize competitions at 15%.
- Locally manufactured articles of plastic of Tariff Codes 3923.30.00 and 3923.90.90 at 10%.

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# Excise Duty

## Change of excise duty rates on spirits and cigarettes

- Imported sugar confectionary from KES 42.91 per kg to KES 257.55 per kg
- Wines and other alcoholic beverages obtained by fermentation of fruits from KES 243.43 per litre to KES 22.50 per centilitre of pure alcohol.
- Beer and spirits of alcoholic strength not exceeding 6% from KES 142.44 per litre to KES 22.50 per centilitre of pure alcohol
- Spirits of alcoholic strength exceeding 6% from KES 356.42 per litre to KES 16 per centilitre of pure alcohol.
- Cigarettes with filters from KES 4,067.03 per Mille to KES 4,100 per Mille
- Cigarette without filters from KES 2,926.41 per Mille to KES 4,100 per Mille.

**Effective date: 1 July 2024**

## Amendment of excise duty on motorcycles

- Removal of excise duty on petrol engine motorcycles
- Introduction of excise duty on imported electric motorcycles other than motorcycle ambulances.
- Change of excise duty on motorcycles from KES 12,952.83 per unit to 10% of the value or KES 12,952.83

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# Excise Duty

## Inflationary adjustment provisions to be deleted.

- Delete provisions on determination of inflationary adjustment of excise duty rates.

Effective date: 1 July 2024

## Clarification that imported clinker is not subject to excise duty

- Cement is excisable at 10%
- Clarify that clinker is not subject to excise duty.

Effective date: 1 July 2024

## Amendment of the exemption schedule

- Exemption of all goods, including materials, supplies, equipment, machinery and motor vehicles, for official use by the National Intelligence Service.

Effective date: 1 July 2024

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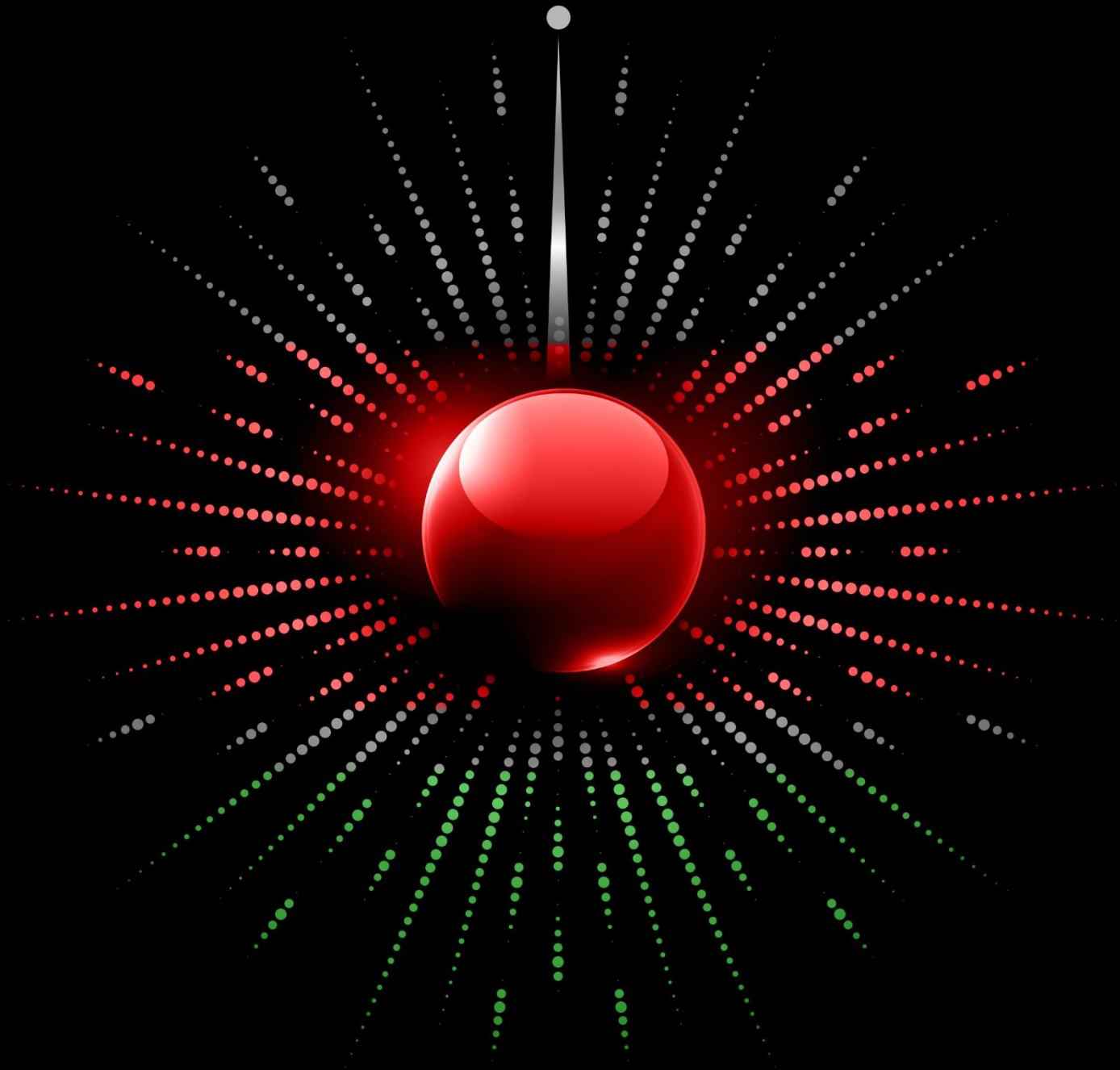
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# Miscellaneous Fees & Levies



# Miscellaneous Fees & Levies

## Change in IDF rate

- Increase of IDF rate from 2.5% to 3%.

**Effective date: 1 July 2024**

## Exemption of IDF and RDL

- Goods including material supplies, equipment, machinery and motor vehicles for the official use by the NIS.
- Inputs, raw materials and machinery used to manufacture mosquito repellent.

**Effective date: 1 July 2024**

## Changes in EIPL on imported goods

- Export and Investment Promotion Levy (EIPL) will apply to alcoholic beverages, shoes, furniture, motorcycles, mattress supports, milk and cream, cooking stoves for liquid fuel, and other products.
- Reduction of EIPL on clinker from 17.5% to 10% and kraft liner from 10% to 3%.

**Effective date: 1 July 2024**

## Introduction of Eco Levy

- Eco Levy will be applied to office machines, smartphones, automatic data processing machines, parts and accessories, radio broadcasting or television transmission apparatus, telephone sets, rubber tyres, and diapers, among other things.
- The Levy will be imposed at rates ranging from KES 98 to KES 1,800 per unit.

**Effective date: 1 July 2024**

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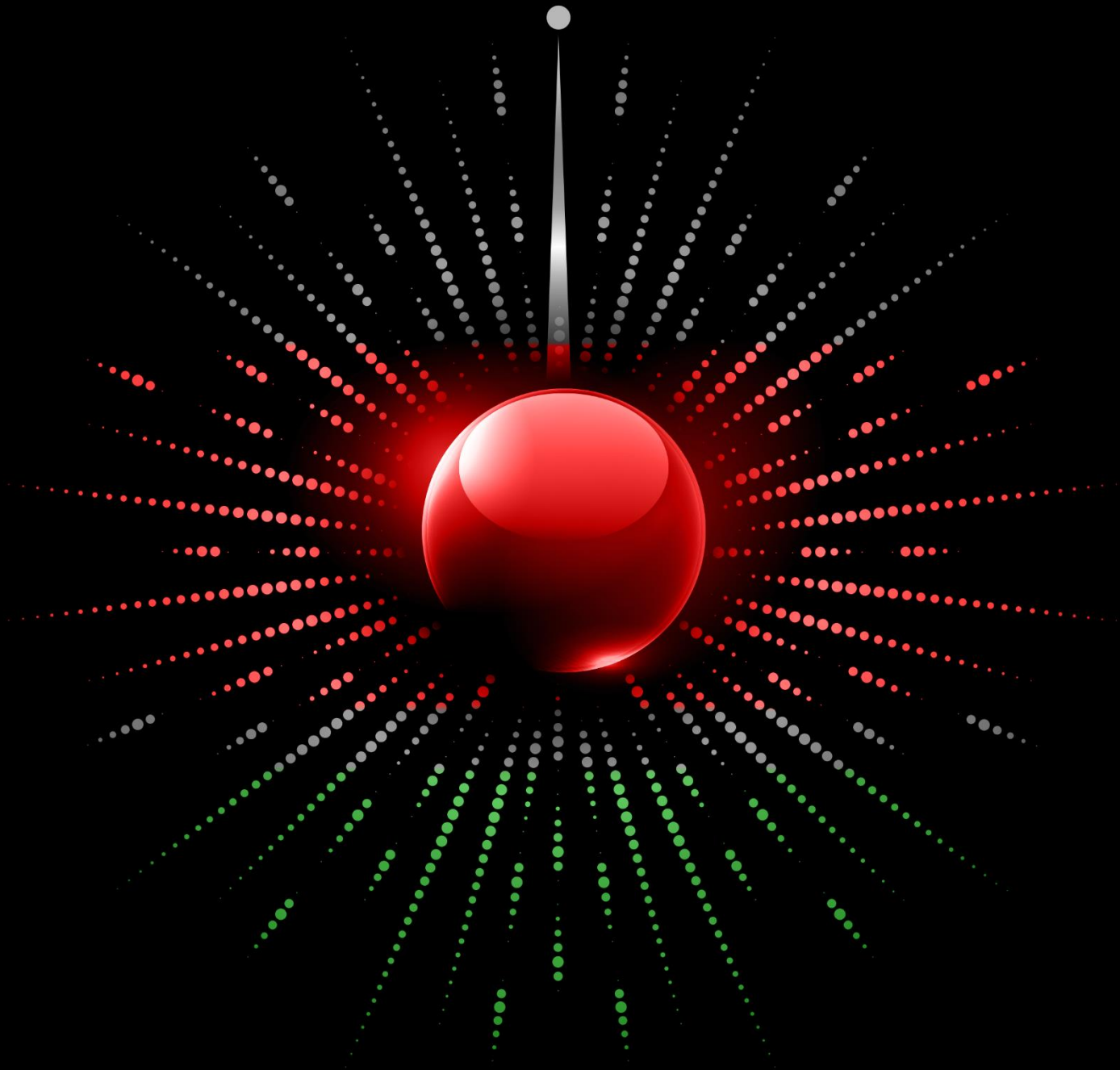
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# Tax Procedures & Administrative Proposals



# Tax Procedures & Administrative Proposals

## Objection process

- Invalidly lodged objections will be disallowed when a taxpayer fails to cure invalidity within seven days of notification.
- The timeline for issuance of objection decisions will be extended to ninety days from sixty days.

## Electronic tax invoices

- Commissioner empowered to require integration with established system failure to which penalties of KES 2,000,000 per month may apply.
- Electronic tax invoice requirements captured in the Tax Procedures (Electronic Tax Invoice) Regulations, 2024, to be adopted in TPA.

## Refundability of and relief from tax

- Timelines for refund of income tax are retained at five years, while all other taxes are restricted to six months.
- Commissioner granted discretion to abandon tax in instances of impossibility, undue difficulty, hardship or any other reason subject to written approval by the Cabinet Secretary.

## Tax enforcement

- Validity of agency notices to be limited to one year.
- Commissioner empowered to issue agency notices even where rights of appeal remain available.
- Requirement for conviction prior to penalties for failure to withhold tax dropped. Penalty retained at 10%.
- Export processing zones to be penalised KES 20,000 per month for failure to file SAR.

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# Tax Procedures & Administrative Proposals

## Tax Agents Committee

- The Tax Agents Committee is authorised to provide recommendations prior to the Commissioner's cancellation of the tax agents' license.
- Clarification that the Tax Agents Committee referred to in TPA is established by the Tax Procedures (Tax Agents) Regulations, 2020.

## Administrative Measures

- Computation of timelines for submitting and paying tax obligations to exclude Saturdays, Sundays and public holidays.
- Employees working remotely outside Kenya for an employer in Kenya are required to register for tax purposes.

## Miscellaneous

- Restrictions of sale of affordable housing units under the Affordable Housing Act, 2024, to be dropped.
- Processing personal data exempt from provisions of the Data Protection Act where disclosure is necessary for assessment, enforcement or collection of any tax or duty.
- The functions of the Public Sector Accounting Standards Board will be expanded to include prescribing frameworks for implementing accrual accounting in Government and risk management.

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