

Tax & Legal Alert
June 2022



Keeping you in the loop

Finance Bill Alert

Following the budget speech delivered by the Minister of Finance and Planning on 14 June 2022, the Finance Bill (“the Bill”) was released on 15 June 2022. This alert sets out a high-level summary of the key changes and specifications contained in the Bill, which if ratified will become law effectively from 1 July 2022.

The Bill proposes various amendments to a number of laws which includes tax laws covering Direct Taxes, Indirect Taxes, and Administrative Changes, including Transfer Pricing. The Bill also highlights some expected changes in the Telecommunication, Mining, and Gaming Sports and Recreation sectors.

To read the Budget Highlights document please click [here](#).

The Bank of Tanzania Act CAP 197

The Bill seeks to amend Section 35 and 36 of the Bank of Tanzania Act (“BoT Act”) to limit Government borrowing to not exceed 18% of the approved domestic revenue estimates of each fiscal year. Currently, Government borrowings are limited to one-eighth of the domestic revenue collected in the preceding year.

This measure is intended to increase the ceiling of the total amount which the Bank of Tanzania can advance to the Government. The aim is also to enable the Government to effectively implement its budgets.

The Business Names (Registration) Act CAP.213

The Bill proposes to introduce amendments to the Business Names Registration Act as follows:

- Every firm having a place of business in Tanzania is now required to register a business name regardless of the name. Prior to this, businesses with names that consist of the true surnames or initials of its partners were exempted from registering a business name.
- The Bill also proposes to impose a penalty of not less than TZS 1 million but not exceeding TZS 5 million for failure to provide information to the Registrar regarding changes in beneficial ownership of a partnership or failure to provide the Registrar with a statement of particulars containing information on the beneficial owners of a partnership.
- The Bill proposes to amend Section 2 of the Business Names Registration Act to define “beneficial owner” to have the meaning ascribed to it under the Anti-Money Laundering Act CAP 423. The Anti-Money Laundering Act defines a beneficial owner to mean:

A natural person; -

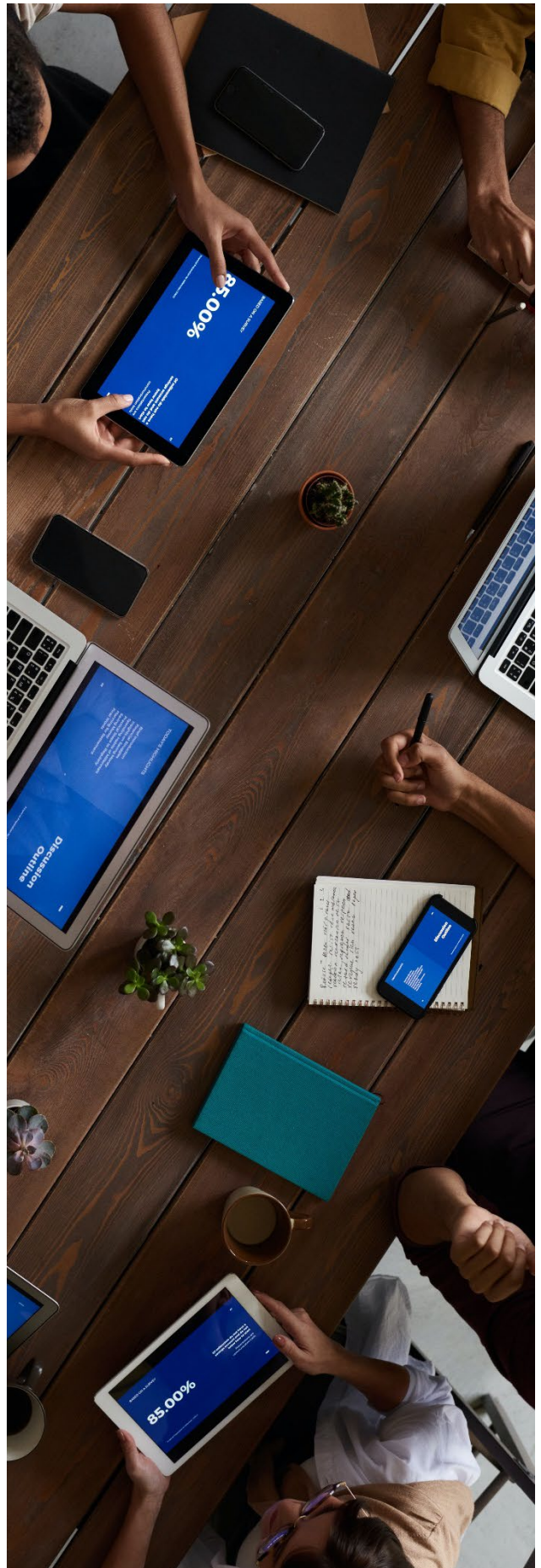
- a) who directly or indirectly ultimately owns or exercises substantial control over an entity or an arrangement;
- b) who has a substantial economic interest in or receives substantial economic benefit from an entity or an arrangement directly or indirectly whether acting alone or together with other persons;
- c) on whose behalf an arrangement is conducted; or
- d) who exercises significant control or influence over a person or arrangement through a formal or informal agreement.

The intended benefits of these proposed changes are to enhance compliance and ensure availability of beneficial ownership information.

The Cashewnut Industry Act CAP 203

The Bill proposes to amend Section 17A of the Cashewnut Industry Act to provide for the distribution of revenue obtained from the export levy from raw cashew nuts as follows:

- ✓ 50% shall be remitted to the Ministry of Agriculture for input subsidy and the Agriculture Development Fund (ADF); and
- ✓ 50% shall be remitted to the Consolidated Fund.



Prior to this proposed amendments, the total amount of export levy was deposited to the Consolidated Fund. This measure is intended to support the growth of the Agricultural Sector and facilitate access to financial resources for input subsidization, Research and Development for the Cashewnut Industry.

The Companies Act CAP 212

- The Bill proposes to penalize a company that fails to keep a register of its members. The proposed penalty for noncompliance is TZS 100,000 and an additional TZS 10,000 for each day during which the default continues. The Bill proposes to treat the 'officer' as 'any person in accordance with whose directions or instructions the directors of the company are accustomed to act'
- Where a company with more than 50 members fails to keep an index of its members, the Bill proposes to impose a penalty of TZS 100,000 and an additional TZS 10,000 for each day during which the default continues.
- Where a company fails to deliver an annual return within 28 days of the return date, the company and every officer of the company who is in default shall be liable to a penalty of TZS 100,000 and an additional TZS 10,000 for every day during which the default continues. As per the Bill the expression "officer" shall include any person in accordance with whose directions or instructions the directors of the company are accustomed to act."

The Copyright and Neighboring Rights Act CAP 218

The Bill proposes a number of amendments focusing on three things:

- Introduce a copyright levy at a rate of 1.5 percent that is to be charged on the value of blank material, apparatus, device or equipment used or capable of being used to copy protected work.
- Impose a requirement for Collective Management Organizations to submit reports of its operations and audited accounts to the Copyright Office in order to ensure accountability and strengthening the management of copyright and neighboring rights.
- To clearly stipulate the role and functions of the Copyright Office and introduce a system of collective management of copyrights. The aim of this amendment is to separate the role of the Copyright Office and role of the Collective Management Organization.

The Excise (Management and Tariff) Act CAP. 147

The Bill seeks to:

- Amend the Excise (Management and Tariff) Act, Cap. 147, whereby the penalties under sections 16 and 18 regarding denaturing of spirits and entry of premises and plant are deleted. The aim of the amendment is to consolidate under the Tax Administration Act all penalties for offences under tax laws.
- Amend sections 124 and 125 that provide for the imposition of excise duty to include providers of pay-to-view services using means other than cable such as terrestrial, satellite or any other technology.



- Amend the Fourth Schedule to introduce excise duty rates on sugar confectionaries and lead-acid batteries in order to expand the tax base and protect the consumers health and environment. Moreover, the Fourth Schedule is amended to exempt excise duty on packaging materials for packing horticultural products for exports. This proposed amendment intends to reduce costs to exporters and enhance competitiveness of horticultural products in the international market.

The Electronic and Postal Communications Act (CAP 306)

The Bill proposes to amend the Electronic and Postal Communications Act, Cap. 306, by adding Section 164B to impose a fee of TZS 1,000 to TZS 3,000 to be charged on television decoder subscription paid by the user of decoder with the aim of increasing Government revenue.

The Export Tax Act CAP 196

The Bill proposes to introduce an export levy of 30% or USD 150 per metric tone (whichever is higher) on copper waste and scrap metals with HS Code 7204 and 7404. This measure is intended to protect local manufacturers and ensure sufficient availability of raw materials to the respective industries.

The Foreign Vehicle Transit Charges Act, CAP 84

The Bill proposes to reduce transit charges for vehicles exceeding 3 axles from USD 16 per 100 kilometers to USD 10 per 100 kilometers.

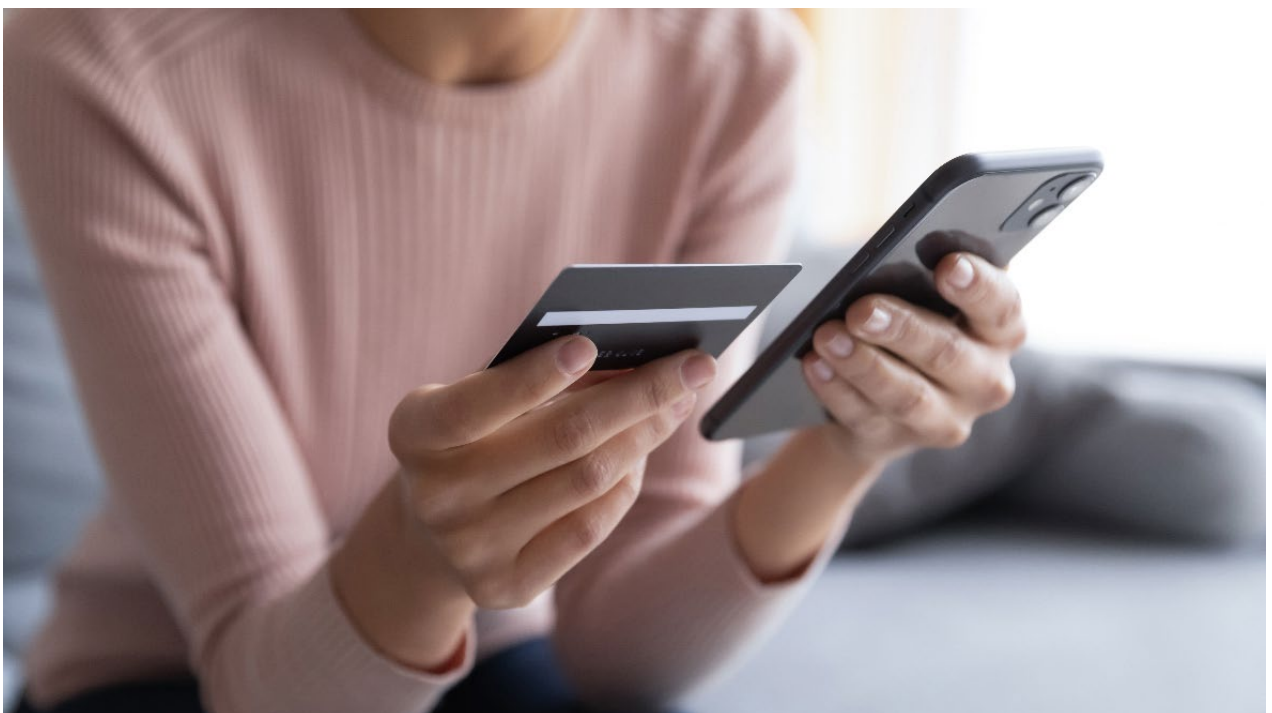
The measure intends to align with charges of COMESA for the purpose of resolving the existing challenges in charging road user fee on trucks entering United Republic of Tanzania from other EAC countries or COMESA members.

The Gaming Act, CAP 41

The Bill proposes the following amendments:

- Amend the definition of gaming activities under Section 3 to include virtual and internet gaming activities.
- Amend Section 31 of the Gaming Act to impose a gaming tax of 10% of the gross gaming revenue for all other gaming activities not mentioned in the Schedule.
- Amend Section 31A to provide for the mode of the reporting and collection of the gaming tax on winnings. As per the proposed amendments, the gaming activity in which the wining is made and paid for, shall be a withholding agent of a person entitled to the winning prize and responsible for the following:
 - Issuing notifications necessary for collection of gaming tax on winning prize and withholding the gaming tax at the time of payment of winning prize;
 - Remitting the withheld gaming tax to the Commissioner electronically on or before the seventh day of the following month from the month of payment of the winning prize; and
 - Submitting a return or certificate of payment of the withheld gaming tax to the Commissioner not later than fifteen days following the end of each calendar month.

As per the proposed amendments, a licensee or withholding agent who fails to withhold gaming tax under the Gaming Act shall be responsible to pay the amount of gaming tax on winnings not withheld together with the interest and penalty as provided for under the Tax Administration Act.”



Government Loans, Guarantees and Grants Act CAP. 134

The Bill proposes to make the following amendments to the Government Loans, Guarantees and Grants Act:

- Section 3 introduces the use of a debt sustainability analysis that is to be conducted on an annual basis in order to determine sustainability threshold indicators.
- Section 19 is amended in order to impose on the Commissioner responsible for Debt Management the obligation to deal with debt management. Prior to this, the obligation was conferred upon the Commissioner for Policy Analysis. In addition to this, section 19 is amended to improve representation of members of the Technical Committee by assigning them several roles including:
 - Heads of unit involved in debt management;
 - Head of division responsible for national planning in the Ministry of Finance and Planning;
 - Commissioner for policy analysis in the Ministry of Finance and Planning;
 - Head of division responsible for public and private partnership; and
 - Treasury Registrar.
- Further, Section 20 is proposed to be amended to make the department responsible for debt management under the Ministry of Finance to constitute the National Committee Secretariat. The amendment aims at enhancing efficiency in the performance of functions of the Secretariat.

Income Tax Act CAP 332

The Bill proposes to make the following amendments:

- Amending section 3 to expand the definition of the term “business” to include: a transaction or activity carried out through the internet or an electronic means including an electronic service or transaction conducted in the digital marketplace regardless of the manner in which such transaction is carried out. Further, digital ‘marketplace’ is defined as a platform which enables direct interaction between buyers and sellers of goods and services through electronic means.
- Amending Sections 4 and 79 to introduce a regime of taxing income earned by individual small scale miners to enable them pay tax at the time of selling minerals due to the nature of their business.
- Amending Section 10 to empower the Minister to grant exemption to special strategic investments approved by the National Investment Steering Committee in accordance with the Tanzania Investment Act, Cap. 38 after being approved by the Cabinet.



- Amending Section 32 on annuities, instalment sales and finance leases to include the treatment of profit derived by non-conventional banks through alternative financing. Where an alternative financing arrangement approved by the Bank of Tanzania is payable as cost plus margin, the margin shall be treated in the same manner as interest.
- Amending the definition of a resident corporation under Section 66 (4) to include corporations where management and control of their affairs are exercised in the United republic whether physically or by electronic means. This amendment has been made to address current technological changes in the conduct of business by including the control and management of a business through electronic means.
- Amending section 69 by including into the tax net payments made to foreign investors who harness natural resource (for generating power or anything of value) and non-resident who supply digital services to individuals (other than those conducting business) without having physical location within the United Republic to widen tax base.
- Amending Section 82 to allow individuals who are not doing business to withhold tax on payments including rental payments with respect to residential and commercial buildings. The amendment also proposes to exclude payment of interest on corporate and municipal bonds from being collected through withholding tax procedure.
- Addition of new sections 90A and 90B: Section 90A introduces tax to non-resident service providers of services in the digital marketplace at the rate of 2% of the gross payment. The Bill provides that minister may by regulations prescribe the procedure for assessing and collecting income tax for the same.
- Further, gross payment is defined to mean payment made but does not include value added tax.
- Section 90B is to be amended to require the bulk importers of petroleum products to collect an advance tax from retail traders of petroleum products. The tax rate proposed is 20 shillings on each litre of the product sold.

The tax to be remitted not later than 7 days from the date of transaction. This will also involve submission of the return or certificate of payment of the tax collected not later than the seventh day of the month following the month to which the payment relates.

- Moreover, the Bill proposes to amend Section 92(b) of the Income Tax Act by excluding non-resident service providers of digital services as provided for by the new section 90A from the obligation to file return of income.

Amendments to First Schedule of the Income Tax Act

- The Bill proposes to amend the First Schedule to adjust the upper band of the presumptive tax rates with the aim of enhancing transparency and simplification of assessment and payment procedures as follows:

TURNOVER	TAX PAYABLE WHERE SECTION 35 OF TAX ADMINISTRATION ACT IS NOT COMPLIED WITH	TAX PAYABLE WHERE SECTION 35 OF TAX ADMINISTRATION ACT IS COMPLIED WITH
Where turnover does not exceed TZS 4,000,000/=	NIL	NIL
Where turnover exceeds TZS 4,000,000/= but does not exceed TZS 7,000,000/=	TZS 100,000/=	3% of turnover in excess of TZS 4,000,000/=
Where turnover exceeds TZS 7,000,000/= but does not exceed TZS 11,000,000/=	TZS 250,000/=	TZS 90,000/= plus 3% of turnover in excess of TZS 7,000,000/=
Turnover of TZS 11,000,0001/= but does not exceed TZS 100,000,000/=	3.5% of turnover	



- The Bill proposes to amend the First Schedule to introduce a fixed tax rate of 3,500,000 shillings per annum to individuals involved in the long-distance transportation of passengers by buses (40 passengers and above) and carriage of goods by lorries (three and above axles). The proposed amendments aim to enhance predictability and certainty in taxation. The Bill further defines “long distance transportation” to mean a carriage of passengers or goods from one region to another in the United Republic or outside of the Republic.”
- The Bill proposes to amend the First Schedule by reducing withholding tax rate on royalty on payments to non-resident service providers in the film industry from the existing 15% to 10%. The aim of the amendment is to promote employment and transfer of knowledge and skills in the film industry.

Further, amendments to the Second Schedule of the Income Tax Act.

- The Bill proposes to amend the Second Schedule to provide for exemption on gains on realization or transfer of mineral rights or mineral information in respect to the following;
 - Amounts derived from gain on realisation or transfer of mineral rights and mineral information to a partnership entity formed between the Government and an investor;
 - Amounts derived from gain on realisation or transfer of free carried interest shares form a partnership entity to the Government; and
 - Amounts derived from gain on realisation or transfer of shares to the Government through the Treasury Registrar.

Insurance Act CAP 394

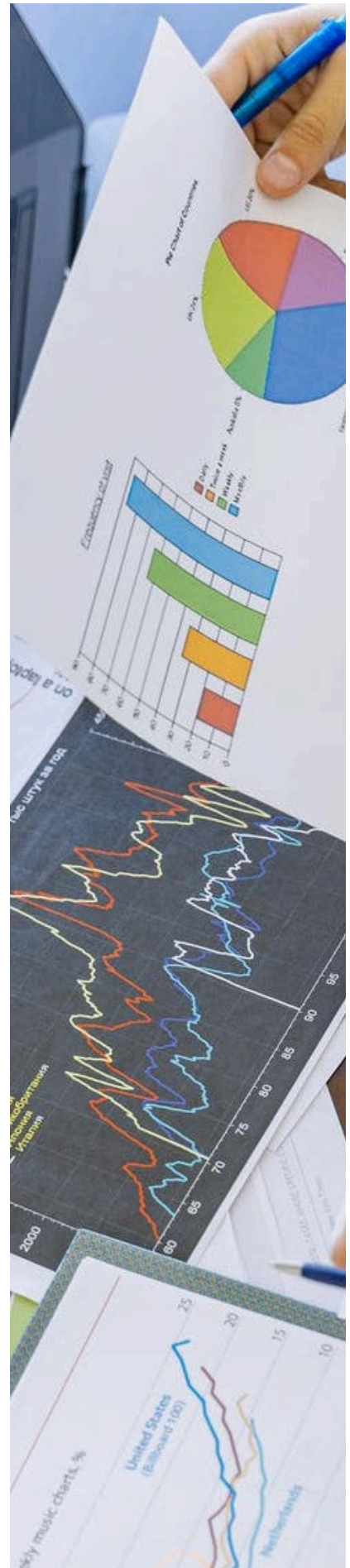
The Bill proposes to expand the scope for mandatory insurance to public markets, Commercial buildings, imported goods, marine vessels, ferries, and pontoons. The measure is likely to spur some activity in the insurance sector given the inevitable uptake in the mandatory insurance areas.

Local Government Finance Act, CAP 290

- The government aims to provide financing to small scale holders, particularly youth and women. As a result, the Bill proposes to distribute 10% of the revenue collected by the Local Governments as follows:
 - 5% to improvement of the entrepreneur’s infrastructures;
 - 2% to youth loans;
 - 2% to women; and
 - 1% to people with disabilities
- The Bill proposes an exemption of crop cess on seeds. The exemption aims at providing relief to farmers by reducing the cost of agriculture inputs, increase production of agriculture produce.
- As a result, the Bill proposes a reduction of produce cess on forestry products from 5% to 3%
- Further the Bill proposes to remove the exemption to pay produce cess for corporate entities paying service levy. It is proposed that the Minister responsible for local government to issue regulations on sharing of service levy collected among local government authorities.

The Local Government (District authorities) Act, (CAP. 287) & The Local Government (Urban Authorities) Act, (CAP 288)

The Bill proposes that each district and urban authority shall establish a one-stop centre for co-coordinating, encouraging, promoting, and facilitating business within its area of jurisdiction.”



The Mining Act, (cap. 123)

In line with the Minister's speech, the Bill proposes to amend the Mining Act by reducing the rate of royalty on the following:

- Coal used as energy raw materials in factories from 3% to 1%; and
- Gold minerals sold to refinery centres from 6% to 4%.

The National Payment Systems Act, (CAP. 437)

- The Bill proposes to amend Section 46A to reduce the mobile money transaction levy on sending and withdrawing monies from a maximum of TZS 7,000 currently in existence to a maximum of TZS 4,000 on each transaction.

The Ports Act, (CAP. 38)

- The Bill proposes to amend Section 67 of the Ports Act to add that wharfage shall be collected by the Tanzania Revenue Authority.

The Tanzania Investment Act, (CAP. 38)

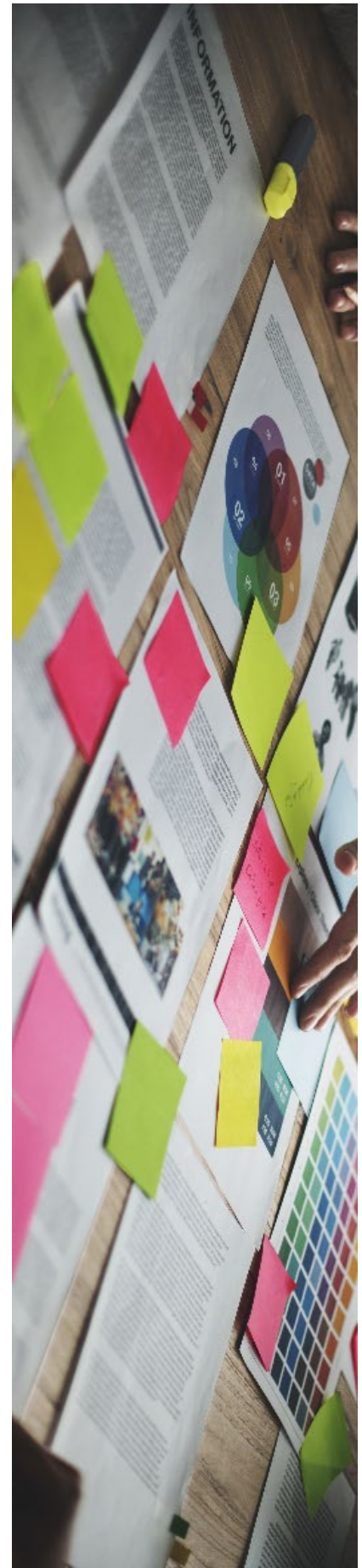
- The Bill proposes to amend Section 20 to enable fiscal incentives approved by National Investment Steering Committee to special strategic investors to be issued under relevant tax laws.
- The aim of the amendment is to harmonize the provisions of the Act and the tax laws in relation to granting of tax exemption.

The Tanzania Revenue Authority Act, (CAP. 399)

- The Bill proposes to amend Section 23 of the Tanzania Revenue Authority Act, to recognize fees charged on self-financing operational services to be among fees which are charged and collected by the Authority from its operations.
- Further, it is proposed to amend the Second Schedule so as to make provision for a Board member to attend meetings of the Board in person or through a duly appointed proxy.

The Tax Administration Act, (CAP. 438)

- The Bill proposes to allow the Commissioner General to register and issue a TIN to every Tanzanian citizen aged eighteen years or above who has been registered and issued with a National Identification Number under the Registration and Identification of Persons Act. This is proposed to come into effect from 1st January 2023; and
- Ensure each Taxpayer Identification Number issued is connected with a National Identification Number. The Taxpayer Identification Number issued to a person under this section shall be used in every transaction involving sales or purchases, whether made electronically or manually.
- The Commissioner General may licence an individual to act as a tax consultant on behalf of any person under a tax law for purposes of discharging the person's obligation in a tax law. A duly licensed tax consultant may act as an agent of a taxpayer under any tax law subject to conditions prescribed in the regulations or licence. Individuals who are not licenced except an employee or a manager of a person shall not be allowed to represent any person on matters under any tax law.
- Every taxpayer required to file return shall file the return electronically on or before the due date as prescribed in the specific tax law. Tax returns may only be filed manually under special circumstances and by notice in writing to the Commissioner General.
- Registration of storage facilities: Any person who establishes a storage facility with the aim of keeping goods for business or investment purposes, and the facility is capable of storing goods of the value exceeding ten million shillings shall register the facility with the Commissioner General. The owner of a registered facility will be required to keep records of goods stored and additionally report on monthly basis to the Commissioner.
- There are punishments for storing goods without registering the storage facility. The penalty is 300 currency points as well as payment of tax on any deemed unpaid tax on stored goods will be levied to facility owners for non-compliance.





- The Bill proposes to amend Section 70 to reinstate the powers to the Minister for Finance and planning to remit penalty and interest on recommendation by Commissioner General. Currently, the power to remit the interest and penalties are vested to the Commissioner General.

The bill proposes to amend the TAA to provide for excise duty offences under Section 91A to include persons who:

- a) manufacture any excisable goods without being licenced by the licensing authority;
- b) do not abide with any of the condition in a licence imposed on him or breaches any of the licence conditions given to him;
- c) do not obey a suspension or revocation of his licence by the Commissioner together with any condition thereof;
- d) fails to keep records with respect to manufacture, storage and delivery of excisable goods at his factory or place of work in the prescribed manner;
- e) denatures spirits for sale without being licenced by the licensing authority and adopting the prescribed formula;
- f) fails to make entry or declaration, before commencing manufacture of excisable goods, of each building, room, place, machinery or equipment, item of plant for the manufacture, preparation for sale or storage of excisable goods;
- g) makes use of any building, room, place, machinery or equipment or item of plant for manufacture, preparation for sale or storage of excisable goods without a valid entry;
- h) makes use of a building, room, place, machinery or equipment or item of manufacture, preparation for sale or storage of excisable goods for purpose other than that declared in the approved entry; or
- i) effects alteration in shape, position, or capacity of a building, room, place of manufacture or preparation for sale or storage of excisable goods without prior permission of the Commissioner.

Upon conviction, there is a fine not exceeding 330 currency points or imprisonment for a term not exceeding three years or both and between 350 and 3,500 currency points or five to twenty years or both for subsequent offenders.

The Tax Revenue Appeals Act, (CAP.408)

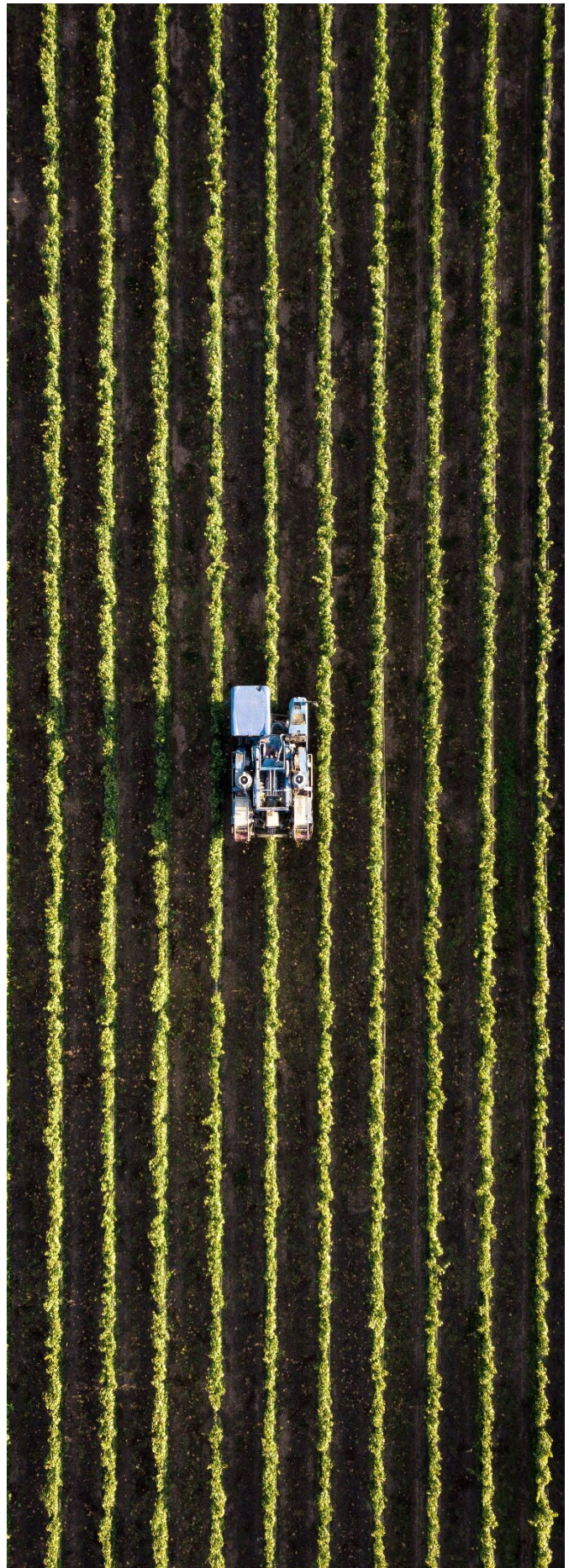
The Finance Bill 2022 proposes changing the wording of Section 22 to allow parties at an appeal to settle through any mode of amicable settlement and not necessarily by mediation.

The parties, however, will be required to submit the outcome of the amicable settlement to the TRAB or TRAT within the specified period and after which a final order will be issued.

The Value Added Tax Act, (CAP. 148)

The Bill proposes the following amendments;

- Amend Section 6 to grant power to the Minister to exempt value added tax to special strategic investment after being approved by the National Investment Steering Committee (NISC) and the Cabinet.
- Amend Section 11 to add trailers and road tractors for semitrailers in the list of goods that qualify for the VAT deferment. The purpose of this is to reduce costs to investors and promoting growth of industries in the country.
- Add Section 55A to zero-rate supply of double refined edible oils and fertilizers by a local manufacturer for a period of one year (effectively from 1 July 2022) for the purpose of reducing costs to final consumers and producers.
- Section 64 is proposed to be amended in order to simplify registration of non-resident service providers of digital services who do not have places of business in the United Republic of Tanzania.
- Amend the exemption Schedule in Part I in order to exempt VAT on:
 - ✓ Standing trees;
 - ✓ Moisture testing equipment; and
 - ✓ Weather forecasting equipment
 - ✓ processed milk with additives and longlife milk
 - ✓ dairy packaging materials;
 - ✓ ear tags, ear tag applicators and lessor beam machines for the purpose of supporting identification,
 - ✓ registration and monitoring of livestock in the country; ed green vanilla;
 - ✓ agro-nets and fishing equipment; and
 - ✓ supply of sisal ropes
 - ✓ refrigerated trucks and cold rooms for the purpose of promoting agriculture, livestock and fishing sectors;
 - ✓ equipment for abattoirs or slaughterhouses for the purposes of promoting modern meat processing;
 - ✓ raw materials used to manufacture fertilizers; and
 - ✓ exempt machines to manufacturers of fertilizers.
- Concurrently, the Bill proposes amendments of the Schedule to remove exemption on smart phones, tablets, modems, and air charter services.



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