Finance Bill Kenya 2023

The 2023 Finance Bill intends to amend various tax and duty laws in order to increase government revenue from taxation.

The following are the key changes proposed in the Bill, which is currently being debated in the National Assembly.

Digital assets tax

The Bill proposes a digital assets tax, which would be a three percent levy on transfer charges applied during the exchange of assets such as cryptocurrencies, digital currencies, and non-fungible tokens (NFTs).

The levy applies to exchanges that host and hold digital assets, and the proposal is expected to raise the cost of transacting digital assets, which have previously held a low anchoring interest in the digital assets, with multiple research findings indicating that at least four million Kenyans own cryptocurrencies.

Member clubs are business-recognized trade associations. The business income of a member-based club or trade association will now be subject to taxation, with the exception of joining fees, welfare contributions, and subscriptions.

Income is currently not taxed as long as members generate 75% of the revenue.

Income tax

Turnover Tax (TOT)- The Bill proposes to raise the gross sales tax from 1% to 3% while bringing more micro businesses into the tax net by lowering the entry point to cover businesses with a yearly turnover of Sh500,000 from Sh1,000,000.

Meanwhile, the upper band has been reduced from Sh50 million to Sh15 million, requiring businesses with revenues exceeding Sh15 million to pay taxes on profits (30% income tax).

The effect of the tax will be that more micro businesses will now be subject to taxation, resulting in an increase in the basket of TOT from the higher tax rate.

3% housing levy deductions

The Bill proposes a new statutory deduction of three percent of gross earnings for the National Housing Development Fund.

The new statutory deduction is expected to reduce employees' net take-home pay even further. The Housing Ministry is expected to develop criteria for people who qualify for affordable housing and will use their deductions to fund their home-buying journey.

Individuals who do not meet the criteria will be reimbursed at the end of seven years or may choose to pass the benefit on to someone who qualifies for the low-income housing plan.

Digital content creators

Taxpayers making the payments will be required to withhold 15% of payments made to digital content creators (withholding tax).

The bill also broadens the definition of digital content creation by defining digital content monetisation as the electronic provision of entertainment, social, literal, artistic, or educational material for payment.

Earners earning more than Sh500,000 are subject to a 35% tax bracket. The Bill proposes to collect more from high-income earners by instituting a new pay-as-you-earn tax band of 35 percent for individuals with gross monthly incomes exceeding Sh500,000 or Sh6 million annually.

The bill will have the effect of increasing PAYE nettings from high-income earners while decreasing the individual's net take-home pay.

VAT

Petroleum products- The Bill proposes increasing the VAT rate on petroleum products from 8% to 16%.

The proposal is expected to have a significant impact on the cost of petroleum products in the country, likely raising prices above current historical highs.

On the contrary, LPG supplies would be tax-exempt, removing them from the current vatable status. The proposal effectively reduces the cost of LPG, making it more affordable to Kenyans.

VAT registration for imported digital tax services - The bill proposes removing the requirement for non-resident firms to register for VAT if their annual turnover exceeds Sh5 million.

As a result, all providers of imported digital services are now required to register for VAT.

Exemptions from VAT include diagnostic and laboratory reagents, vaccines for human and veterinary medicine, and aircraft and spacecraft parts.

Excise duty

Timely excise duty payments- The bill seeks to empower KRA to obligate certain firms in certain industries to pay excise instantaneously.

Players in the gaming industry are for instance required to remit excise taxes within 24 hours.

The proposal is expected to increase the cost of compliance for business accounting for excise duty including the setting up of systems to enable real-time payments.

On the flip side, KRA is set to see improved liquidity from the instant disbursement of taxes levied.

Cosmetics- Human hair, wigs, false beards, eyebrows, eyelashes and artificial nails will begin attracting excise duty at the rate of five percent.

Other new excisable items include imported fish at Sh100,000 per metric ton, or 20%, powdered juice (20%), and imported cement (10% of the value, or Sh1.50 per kilogram).

Excise duty increases- mobile money transfer services Excise duty on gaming, betting, price competitions, and lotteries increases from 7.5 percent to a blanket 20 percent with the goal of increasing tax nettings from the gaming industry.

Any amount charged in the disbursement of digital loans- Any amount charged in the process of a loan issuance by a digital lender will be subject to a 20% excise duty.

Miscellaneous Fees & Levies Act

The bill proposes lowering the import declaration fee from 3.5 percent to 2.5 percent.

The move is seen as a boost to domestic manufacturing by lowering the cost of imported inputs.

Railway Development Levy - The bill also proposes lowering the RDL from 3.5 percent to 2.5 percent, which is seen as an additional cushion for domestic manufacturing.

Tax Appeals Tribunal

Before contesting a Tax Appeals Tribunal decision in the High Court, taxpayers will be required to deposit 20% of the tax in dispute with the KRA or provide equivalent security.

The move is likely to discourage taxpayers from challenging tribunal decisions, as the deposit requirement may be unaffordable for the majority of taxpayers.

Tax Procedures Act

KRA will no longer grant relief due to uncertainty or difficulty in tax recovery on the part of the KRA.

If passed, the proposal will result in an even more aggressive tax authority, implying more running battles between the taxman and taxpayers in arrears.