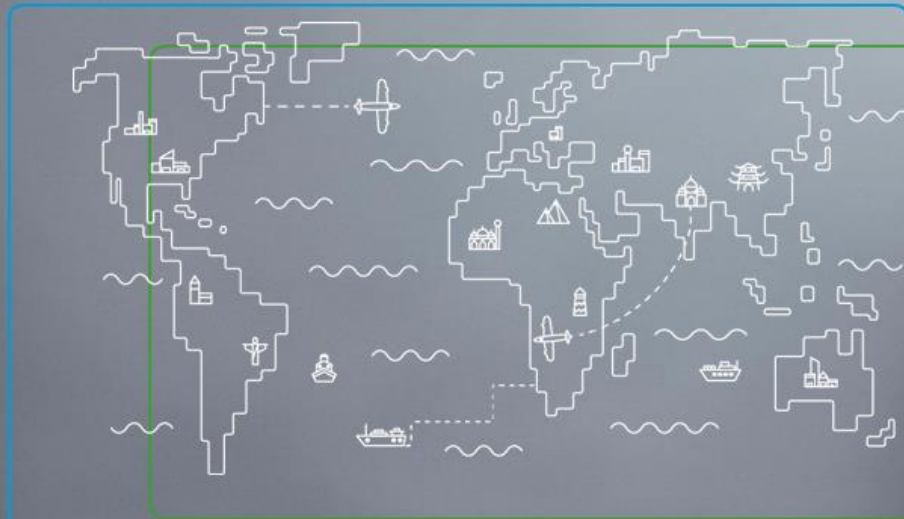


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RSM HYBRID SEMINAR

FOCUS ON FINANCE ACT, 2022 AS IT IMPACTS YOU, AN OVERVIEW OF TAX TRENDS AND RECENT TAX CASES

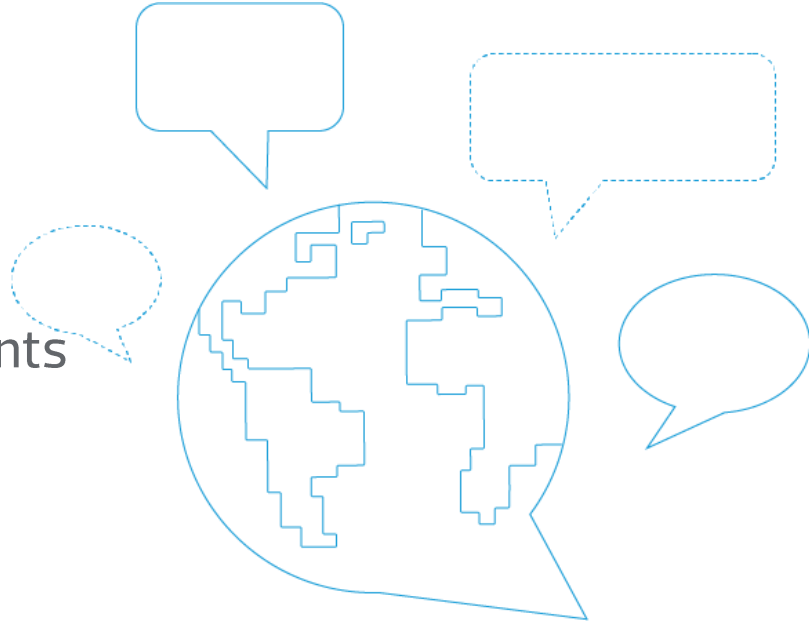
Friday 15th July 2022

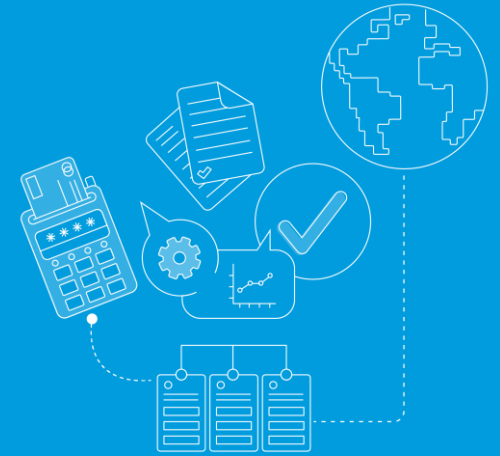
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AGENDA

- Direct taxes
- Indirect taxes
- Tax Procedures Act
- Miscellaneous amendments





INCOME TAX

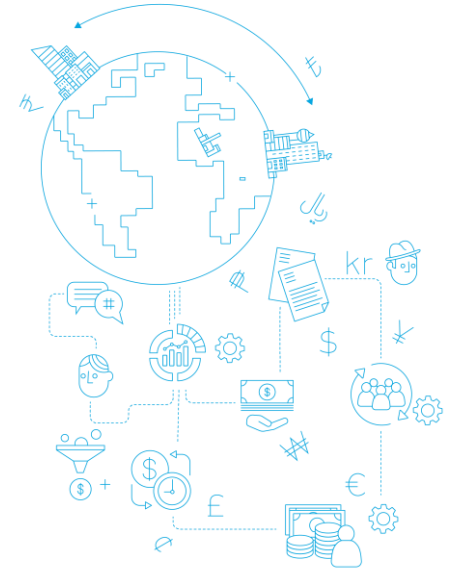
Presented by: Isaac Munyao

THIN CAPITALISATION – MICROFINANCE INSTITUTIONS EXCLUDED (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2021 introduced the revised thin capitalisation provisions (effective 1st January 2022) to restrict the total interest claimable in a year of income to 30% of earnings before interest, taxes, depreciation and amortization (“EBITDA”);

Previously, the thin capitalization provisions did not apply to banks or financial institutions licensed under the Banking Act; and micro and small enterprises registered under the Micro and Small Enterprises Act, 2012. This list has now been broadened to include:

Microfinance institutions licensed and non-deposit taking microfinance businesses under the Microfinance Act, 2006; Entities licensed under the Hire Purchase Act, Non-deposit taking institutions involved in lending and leasing business; Companies undertaking the manufacture of human vaccines; Companies engaged in manufacturing whose cumulative investment in the preceding five years from the commencement of this provision is at least five billion shillings; Companies engaged in manufacturing whose cumulative investment is at least five billion shillings, provided that the investment shall have been made outside Nairobi City County and Mombasa County; and Holding companies that are regulated under the Capital Markets Act.



FOREIGN EXCHANGE (EFFECTIVE 1ST JULY 2022)

A foreign exchange gain or loss realized in a business carried on in Kenya shall be taken into account as a trading receipt or deductible expense in computing the gains and profits of that business for the year of income in which that gain or loss was realized:

Provided that:

The foreign exchange loss shall be deferred (and not taken into account) –

–where the foreign exchange loss is realised by the company whose gross interest paid or payable to related persons and third parties exceeds 30% of the company's earnings before interest, taxes, depreciation and amortization (EBITDA) in any financial year.

This amendment has now aligned the treatment for foreign exchange losses to the thin capitalisation treatment.



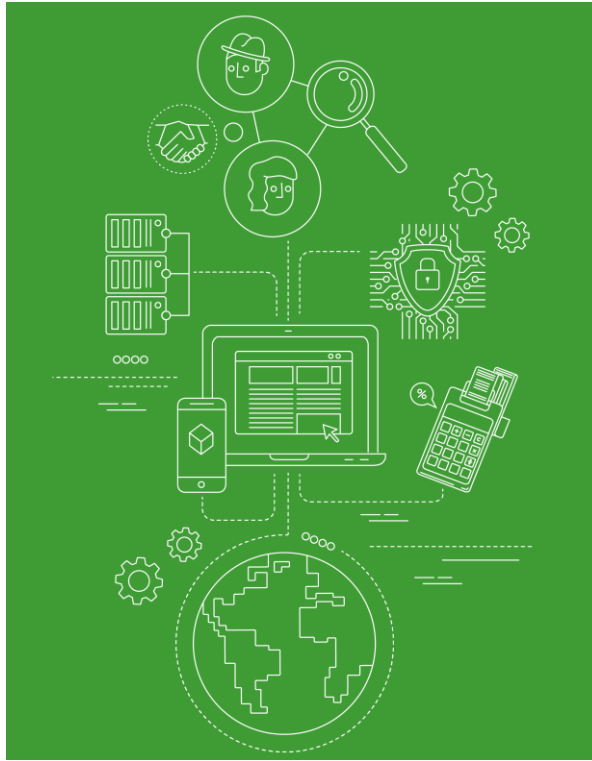
CHARITABLE DONATIONS (EFFECTIVE 1ST JULY 2022)



Any donation in that year of income to a charitable organisation whose income is exempt from tax under Paragraph 10 of the First Schedule to this Act, or to any project approved by the Cabinet Secretary responsible for matters relating to Finance.

Prior to the change, Section 15(w) of the ITA provided for deduction from taxable income any cash donations to a charitable organisation registered under or exempt from registration under the Societies Act or the Non-Governmental Organisations Coordination Act.

TAXATION OF GAINS ACCRUING TO NON-RESIDENTS FROM FINANCIAL DERIVATIVES (EFFECTIVE 1ST JANUARY 2023)



With the new amendment, where a resident person enters into a financial derivatives contract with a non-resident person (not having permanent establishment in Kenya), any gain accruing to the non-resident person from that arrangement shall be subject to tax at the rate of 15% of the gains.

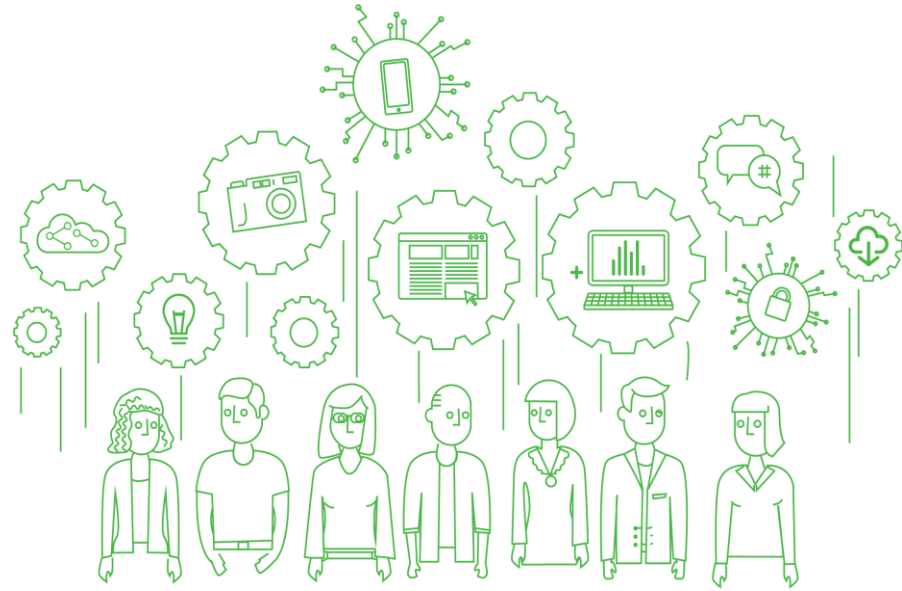
The provisions of this section shall be carried out in accordance with Regulations made by Cabinet Secretary and shall not be applicable on financial derivatives traded in the Nairobi Securities exchange.

Financial derivative – means a financial instrument, the value of which is linked to the value of another instrument underlying the transaction which is to be settled at a future date.

CAPITAL GAINS TAX (EFFECTIVE 1ST JANUARY 2023)

The Finance Act, 2022 has amended Section 34(1)(j) of the Income Tax Act by increasing the tax rate on capital gains from 5% to 15%.

The Act has however provided a reprieve to firms certified by Nairobi International Financial Centre Authority who will have invested 5 billion shillings in Kenya prior to 1st January 2023 and held the investment for at least 5 years before the transfer. The applicable rate will be the prevailing rate before 1st January 2023, which is 5%.



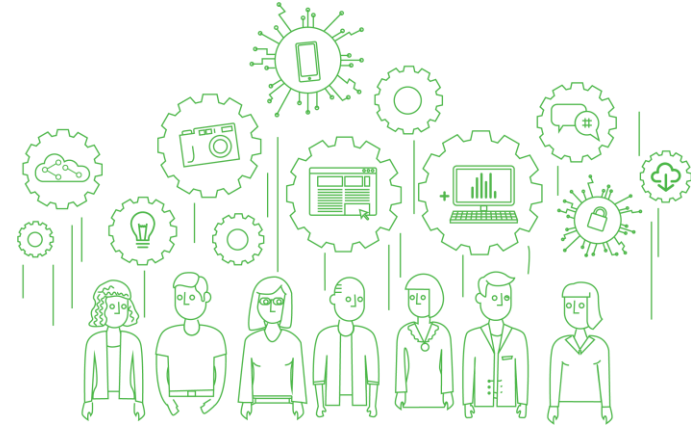
TAXATION OF DIGITAL SERVICES (EFFECTIVE 1ST JULY 2022)

Section 12E provides notwithstanding any other provision of this Act, a tax to be known as digital service tax shall be payable by a non-resident person whose income from the provision of services is derived from or accrues in Kenya through a business carried out over the internet or an electronic network including through a digital marketplace.

Provided that this section shall not apply to a non-resident person with a permanent establishment in Kenya.

This amendment now clarifies that the digital services tax is only applicable to non-residents who do not have a permanent establishment in Kenya.

The rate for digital services tax will remain at 1.5%.



EXCHANGE OF INFORMATION ON TAX MATTERS (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2021 had introduced the provision where an ultimate parent entity of a multinational enterprise group is required to submit to the Commissioner a return describing the group's financial activities in Kenya. This provision is applicable for the year of income 2022 and subsequent years of income.

A multinational enterprise group or a constituent entity, other than an excluded multinational enterprise group, that is resident in Kenya, shall notify the Commissioner, not later than the last day of the reporting financial year of that group –

- (a) Whether or not it is the ultimate parent entity of the group;
- (b) In case it is not the ultimate parent entity of the group, whether or not it is a surrogate parent entity; or
- (c) In cases paragraphs (a) and (b) do not apply, the identity of the constituent entity which is the ultimate parent entity or surrogate parent entity and the tax residence of that constituent entity.

The notification shall be made to the Commissioner in such form as the Commissioner may specify.

“surrogate parent entity” means one constituent entity of the multinational enterprise group appointed by such group to file the country-by-country report in that constituent entity's jurisdiction of tax residence, on behalf of the group.

COUNTRY BY COUNTRY REPORTING (EFFECTIVE 1ST JULY 2022)

An ultimate parent entity or a constituent entity of a multinational enterprise group with a gross turnover of Kshs 95 billion (including extraordinary or investment income) that is resident in Kenya shall file a country-by-country report with the Commissioner of its financial activities in Kenya and for all other jurisdictions where the group has a taxable presence.

An ultimate parent entity shall file the country-by-country report not later than twelve months after the last day of the reporting financial year of the group.

An ultimate parent entity or a constituent entity of a multinational enterprise group shall file a master file and a local file to the Commissioner in such manner as the Commissioner may specify.

The master file and the local file shall be filed not later than six months after the last day of the reporting financial year of the multinational enterprise group.

The Commissioner shall maintain the confidentiality of the information contained in a return submitted in accordance with Section 6(1) and Section 6A(2) of the Tax Procedures Act, 2015.

A person who fails to comply with the country-by-country reporting commits an offence and shall be subject to the penalties prescribed under the Tax Procedures Act, 2015.

COUNTRY BY COUNTRY REPORTING (CONT'D) (EFFECTIVE 1ST JULY 2022)

A country-by-country report filed shall consist of:

- (a) the information relating to the identity of each constituent entity, its jurisdiction of tax residence, if different, jurisdiction where such entity is organized, and the nature of the main business activity or activities of such entity;
- (b) the group's aggregate information including information relating to:
 - revenue;
 - profit or loss before income tax;
 - income tax paid;
 - income tax accrued;
 - stated capital;
 - accumulated earnings;
 - number of employees; and
 - tangible assets other than cash or cash equivalents with regards to each jurisdiction where the group has taxable presence.
- (c) any other information as may be required by the Commissioner.

COUNTRY BY COUNTRY REPORTING (CONT'D) (EFFECTIVE 1ST JULY 2022)

A master file shall contain –

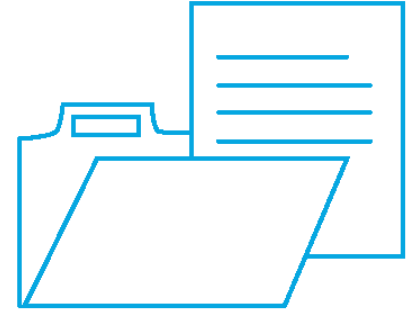
- (a) a detailed overview of the group;
- (b) the group's growth engines;
- (c) a description of the supply chain of the key products and services;
- (d) the group's research and development policy;
- (e) a description of each constituent entity's contribution to value creation;
- (f) information about intangible assets and the group intercompany agreements associated with them;
- (g) information on any transfer of intangible assets within the group during the tax period, including the identity of the constituent entities involved, the countries in which those intangible assets are registered and the consideration paid as part of the transfer;
- (h) information about financing activities of the group;
- (i) the consolidated financial statements of the group;
- (j) tax rulings, if any, made in respect of the group; and
- (k) any other information that the Commissioner may require.



COUNTRY BY COUNTRY REPORTING (CONT'D) (EFFECTIVE 1ST JULY 2022)

A local file shall contain –

- (a) details and information on the resident constituent entity's activities within the multinational enterprise group;
- (b) management structure of the resident constituent entity;
- (c) business strategies including structuring, description of the material-controlled transactions, the resident constituent entity's business and competitive environment;
- (d) the international transactions and amounts paid to the resident constituent entity or received by the entity; and
- (e) any other information that the Commissioner may require.



COUNTRY BY COUNTRY REPORTING (CONT'D) (EFFECTIVE 1ST JULY 2022)

Where there are more than one constituent entities of the same multinational enterprise group that are resident in Kenya, the multinational enterprise group may designate one of such constituent entities as a surrogate parent entity.

A resident surrogate parent entity of a multinational enterprise group shall not be required to file a country-by-country report with the Commissioner with respect to the reporting financial year of the group, if –

- (a) the ultimate parent entity is obligated to file a country-by-country report in its jurisdiction of tax residence;
- (b) the jurisdiction in which the ultimate parent entity is resident for tax purposes has an international agreement and a competent authority agreement in force; and
- (c) the Commissioner has not notified the resident constituent entity in Kenya of a systemic failure, if any.

“competent authority agreement” means an agreement between authorized representatives of jurisdictions which are parties to an international agreement that requires the exchange of country-by-country reports.

COUNTRY BY COUNTRY REPORTING (CONT'D) (EFFECTIVE 1ST JULY 2022)

A resident constituent entity of a multinational enterprise group shall not be required to file a country-by-country report with the Commissioner with respect to the reporting financial year of the group, if –

- (a) a non-resident surrogate parent entity files the country-by-country report on the group with the competent authority of the tax jurisdiction of the entity;
- (b) the jurisdiction in which the non-resident surrogate parent entity is resident requires the filing of country-by-country reports;
- (c) the competent authority of the jurisdiction in which the non-resident surrogate parent entity is resident in Kenya have a competent authority agreement for the exchange of information;
- (d) the competent authority in the jurisdiction where the non-resident surrogate parent is resident has not notified Kenya of a systemic failure; or
- (e) the non-resident parent entity has notified the competent authority in the jurisdiction of its tax residence that the entity is the designated surrogate parent entity of the group.

GAINS OR PROFITS OF BUSINESS IN A PREFERENTIAL TAX REGIME (EFFECTIVE 1ST JANUARY 2023)

The Finance Act, 2022 has repealed the current provision of gains or profits of business in a preferential tax regime, replacing it with the new provision.

Where –

(a) a resident person carries on business with a related resident person operating in a preferential tax regime; or

(b) a resident person carries on business with –

(i) a non-resident person located in a preferential tax regime; or

(ii) an associated enterprise of a non-resident person located in a preferential tax regime; or

(iii) a permanent establishment of a non-resident person operating in Kenya where the non-resident person is located in a preferential tax regime

and the business produces no gains or produces less gains than those which would have been expected to accrue from that business if the business activity was not with a party in a preferential tax regime, the gains of that resident person from that business shall be deemed to be the amount which would have been expected to accrue if that business had been conducted by an independent person dealing at arm's length, or if none of the parties were located in a preferential tax regime.

GAINS OR PROFITS OF BUSINESS IN A PREFERENTIAL TAX REGIME (CONT'D) (EFFECTIVE 1ST JANUARY 2023)

The definition of preferential tax regime has been amended to read:

“preferential tax regime” means –

- (a) any Kenyan legislation, regulation or administrative practice which provides a preferential rate of tax to such income or profit, including reductions in the tax rate or the tax base; or
- (b) a foreign jurisdiction which –
 - (i) does not tax income;
 - (ii) taxes income at a rate that is less than twenty per cent;
 - (iii) does not have a framework for the exchange of information;
 - (iv) does not allow access to banking information; or
 - (v) lacks transparency on corporate structure, ownership of legal entities located therein, beneficial owners of income or capital, financial disclosure, or regulatory supervision.

SPECIAL OPERATING FRAMEWORK AND SPOUSAL INSURANCE RELIEF (EFFECTIVE 1ST JULY 2022)

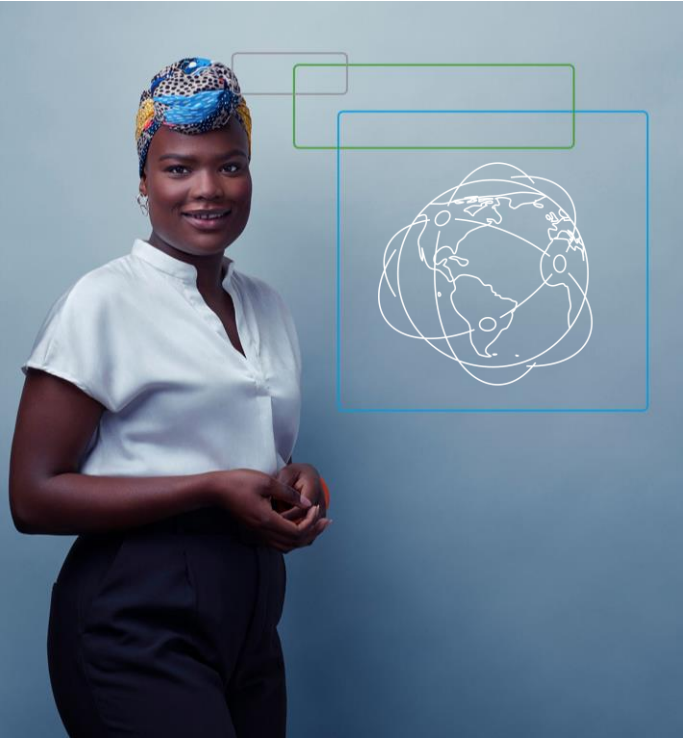
Special operating framework

- In order to incentivise capital investment of at least 10 billion shillings in the manufacturing of human vaccinations in Kenya, the Finance Act, 2022 has introduced a preferential tax rate special operating framework agreement.
- The applicable rate will be as agreed in the special operating framework agreement with the Government.

Spousal insurance relief

- In recognition of the equity and gender equality in law, the Finance Act, 2022 has amended one of the requirements of qualifying for insurance relief to “the individual has paid a premium for an insurance made by the individual on the individual’s life or the life of the individual’s spouse or child’. Previously, the insurance relief only applied to individuals (husbands) who paid a premium on their life, that of their wife or child. This provision is a re-wording to ensure that all taxpayers (including husbands and wives) are entitled to the insurance relief.

INVESTMENT DEDUCTIONS(EFFECTIVE 1ST JULY 2022)



The Finance Act, 2022 introduces an amendment to the proviso where investment deduction shall be 100% where the cumulative investment value in the 3 preceding years outside Nairobi City County and Mombasa City County shall be at least 3 billion shillings.

Provided that where the cumulative value of investment for the preceding three years of income was two billion shillings on or before the 25th April 2020, and the applicable rate of investment deduction was 150%, that rate shall continue to apply for the investment made on or before the 25th April, 2020 *or the investment deduction shall be 150% where the cumulative investment value for the preceding 4 years from the date of this provision comes into force or the cumulative investment for the succeeding 3 years outside of Nairobi City County or Mombasa City County is at least 2 billion shillings.*

ALIGNMENT OF PAYE PENALTIES (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has deleted Section 37(3) of the ITA, which allowed the Commissioner to remit penalties amounting to not more than Kshss 500,000 in relation to PAYE from one employer in a year of income without the approval of the Minister. In doing so, the amendment has also deleted the provision requiring the Commissioner to provide quarterly reports to the CS National Treasury of all penalties remitted in that quarter.
- This amendment will ensure the administration of all the tax heads including PAYE are under the TPA.



MANUFACTURERS OF HUMAN VACCINE EXEMPTED FROM TAX (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has amended the First Schedule of the ITA to exempt companies undertaking the manufacture of human vaccines from income tax as follows:

- a) No deemed interest in respect of interest-free loans issued or advances to companies undertaking the manufacture of human vaccines;
- b) No tax on payments made to non-resident service providers who do not have a permanent establishment in Kenya, in respect of services provided to a company undertaking the manufacture of human vaccines;
- c) No compensating tax accruing to a company undertaking the manufacture of human vaccines;
- d) No tax on dividends paid by a company undertaking the manufacture of human vaccines to a non-resident person;
- e) No tax on income of a company undertaking the manufacture of human vaccines.



SPECIAL ECONOMIC ZONES (EFFECTIVE 1ST JULY 2022)

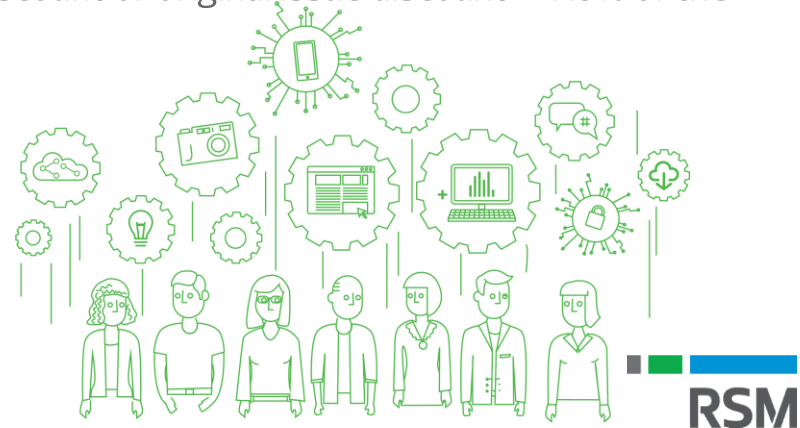
- The Finance Act, 2022 has amended the First Schedule of the ITA to exempt tax on dividends paid out by an SEZ as follows:
 - a) No tax on dividends paid by Special Economic Zone enterprises, developers and operators licenced under the Special Economic Zones Act;
 - b) No tax on dividends paid by Special Economic Zone enterprises, developers and operators to any non-resident person.



CHANGES IN RATES OF TAX (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has amended the Third Schedule of the ITA to amend the rates of tax as follows:

- a) A resident company operating a carbon market exchange or emission trading system that is certified by the Nairobi International Financial Centre Authority – 15% for the first ten years from the year of commencement of its operations;
- b) A resident company operating a shipping business in Kenya –15% for the first ten years from the year of commencement of its operations;
- c) For a non-resident person in respect of interest and deemed interest arising from a bearer bond issued outside Kenya of at least two years duration and interest, discount or original issue discount – 7.5% of the gross sum payable.



OTHER INCOME TAX CHANGES

- Definition of permanent home – means a place where an individual resides or which is available to that individual for residential purposes in Kenya, or where in the opinion of the Commissioner, the individual's personal or economic interests are closest – effective 1st July 2022
- Definition of fair market value – means the comparable market price available in an open and unrestricted market between independent parties acting at arm's length and under no compulsion to transact, which is expressed in terms of money or money's worth – effective 1st July 2022

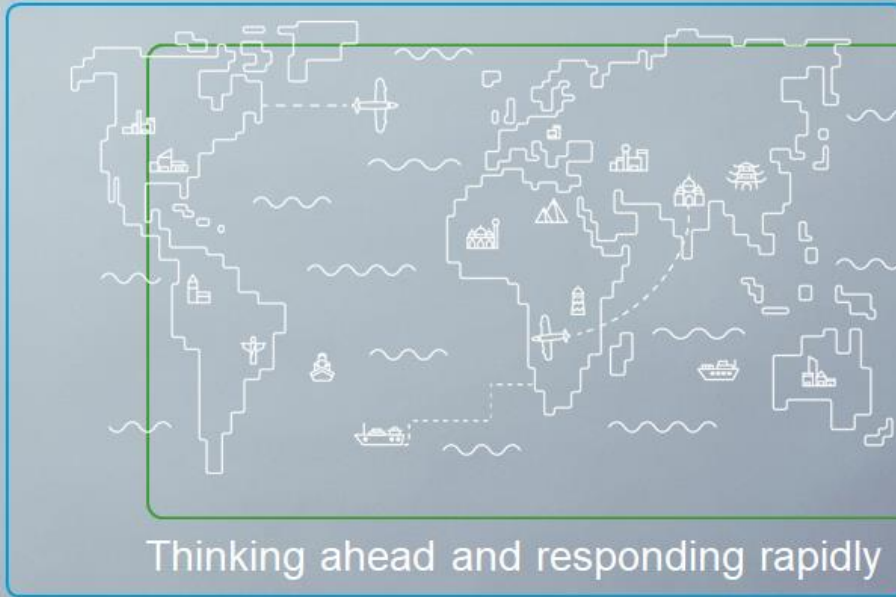
OTHER INCOME TAX CHANGES (CONT'D)

- Change to employee share ownership plan – the value of the benefit shall be the higher of the cost to the employer or the fair market value of the benefit

Provided that–

in the case of an employee share ownership plan, the value of the benefit shall be the difference between the offer price per share, at the date the option is granted by the employer, and the market value, per share on the date when the employee exercises the option – effective 1st July 2022.

- The other change is that the employee share ownership plan does no longer need to be registered with the Commissioner as a collective investment scheme within the meaning of the Capital Markets Authority Act and will now be deemed to have accrued on the date the employee exercises the option and not at the end of the vesting period – effective 1st July 2022.



VALUE ADDED TAX

Presented by: Josphat Karanja

AMENDMENTS TO VAT ON DIGITAL SERVICES (EFFECTIVE 1ST JULY 2022)

Previous definition

Digital marketplace means an online platform which enables users to sell or provide services, goods or other property to other users.

Amended definition

Digital marketplace means an online platform which enables users to ~~sell or provide services, goods or other property~~ sell goods or provide services.

Registration requirements

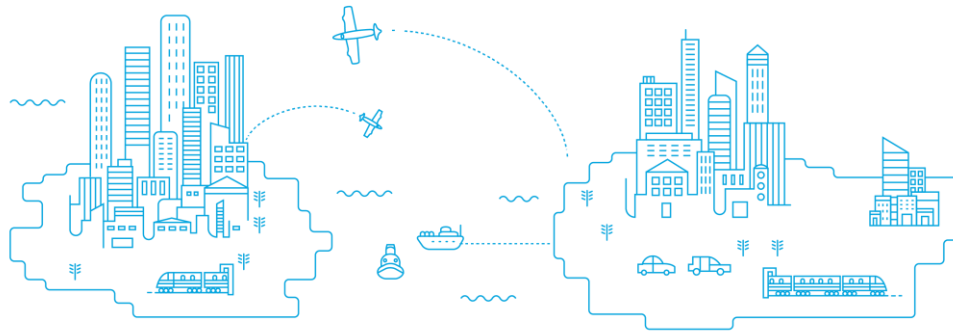
The provisions relating to registration of resident person do not apply to persons supplying imported digital services over the internet or an electronic network or through a digital marketplace as the non-resident persons will be required to register for VAT regardless of their turnover.

TREATMENT OF IMPORTED SERVICES (EFFECTIVE 1ST JULY 2022)

Section 10(1) of the VAT Act states that if a supply of imported taxable services is made to any person, the person shall be deemed to have made a taxable supply to himself (reverse VAT).

The Finance Act,2022 exempts the applicability of reverse VAT provisions on taxable supplies made over the internet or an electronic network or through a digital marketplace.

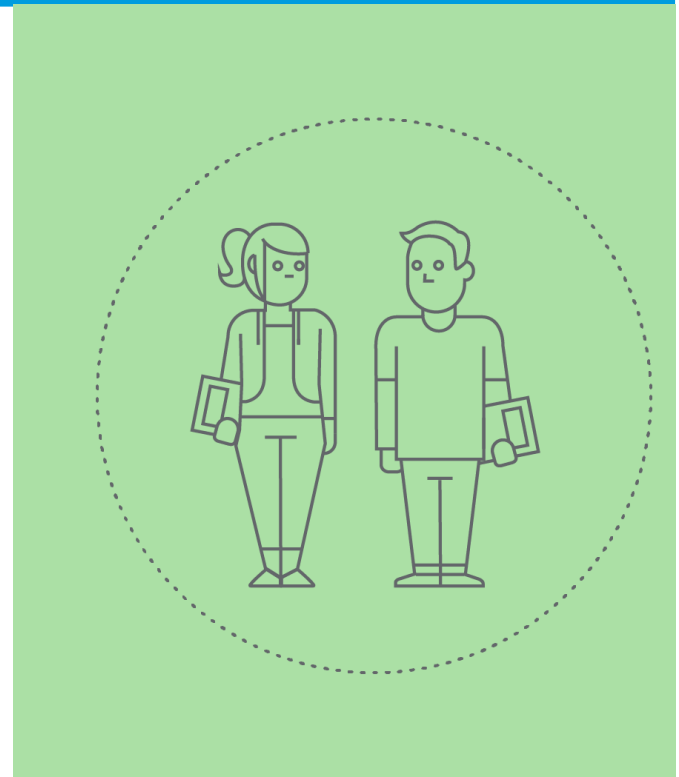
The above provision conflicts with the Digital Marketplace Regulations as non-resident persons providing digital services in a B2B arrangement are not required to account for VAT in Kenya, since the recipient of the supply in Kenya will be the ones required to account for reverse VAT.



DOCUMENTS REQUIRED FOR DEDUCTION OF INPUT TAX (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has included in the list of documents required as support of deductibility of input VAT, the custom entry in the case of a participant in the Open Tender System for the importation of petroleum products that have been cleared through a non-bonded facility. The custom entry should detail the name and PIN of the winner of the tender and the name of the other oil marketing company participating in the tender.

The input tax incurred by the oil marketing company participating in the Open Tender System prior to 1st July 2022 will be deductible provided that it shall be claimed within twelve months after this provision comes into force.



PENALTIES AND INTEREST RELATING TO IMPORTATION OF GOODS (EFFECTIVE 1ST JULY 2022)



Section 22 of the VAT Act deals with the imposition of VAT on the importation of goods by land, air or water.

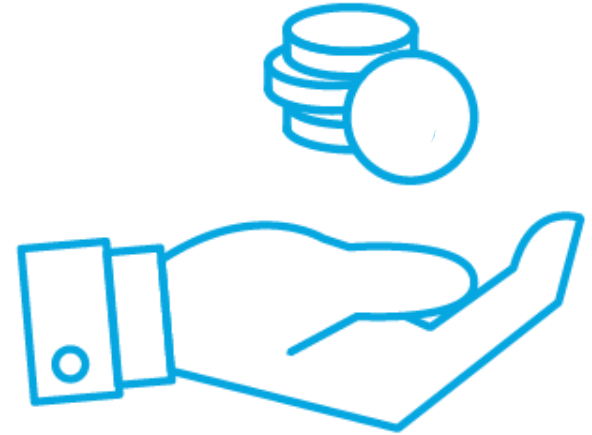
The Finance Act, 2022 has introduced an amendment to impose penalties and interest in line with the provisions of the Tax Procedures Act, 2015 for late payment of VAT on importation of goods.

The Act has also specified that the late payment interest charge shall not exceed the principal VAT due on the imported goods.

AMENDMENT RELATING TO APPLICATION OF VAT REFUNDS (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has expanded the scope of VAT refunds to include any VAT credits arising from input tax incurred by a manufacturer in respect to taxable supplies made to an official aid funded project approved by the Cabinet Secretary in accordance with the First Schedule to the VAT Act, 2013.

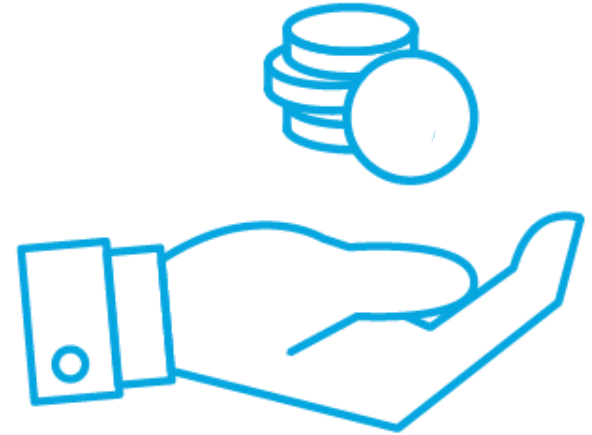
If such VAT credits arose from input VAT incurred before 1st July 2022, the taxpayer will be required to apply for a refund within 12 months.



REFUND OF TAX PAID IN ERROR (EFFECTIVE 1ST JULY 2022)

The provisions relating to refund application of tax paid in error has been deleted and moved to the Tax Procedures Act, 2015.

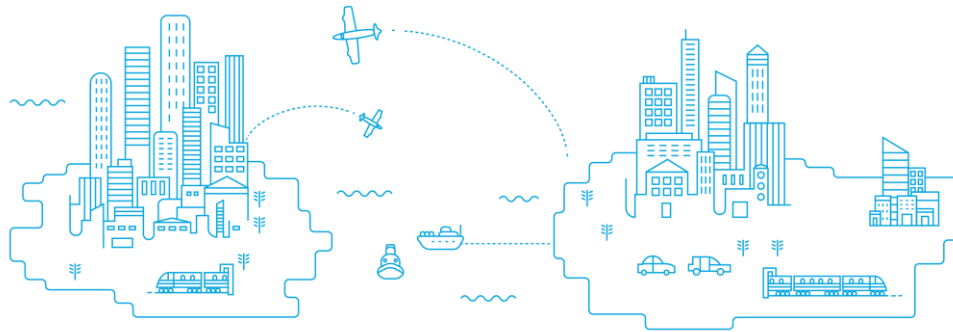
With the new provision, a taxpayer will be required to apply for a refund of the tax paid in error within 6 months, in relation to VAT, and 5 years for other taxes, and the taxpayer will be allowed to apply for the use of refund of tax paid in error to offset any other liabilities due / payable instead of refund.



EXEMPTION ON TAXABLE SUPPLIES TO SPECIALIZED HOSPITALS (EFFECTIVE 1ST JULY 2022)

Prior to the new amendment, 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, was exempt from VAT.

These supplies will now be subject to VAT at 16%. However, the supplies to constructors who had obtained an approval before 1st July 2022 will continue as exempt until the supply of the goods is made in full.



AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
63. Taxable goods and services 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 – current exempt projects to be exempt until project completion)	16%	Exempt
Supply of liquefied petroleum gas including propane	8%	16%

AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
137. Sustainable fuel briquettes and pellets or household and commercial use (pellets added to the section)	Exempt	Exempt
140. Plant and machinery of Chapters 84 and 85 imported by manufacturers of pharmaceutical products or investors in the manufacture of pharmaceutical products upon the recommendation of the Cabinet Secretary responsible for matters relating Health.	Exempt	16%
141. Medical oxygen supplied to registered hospitals	Exempt	16%
142. Urine bags, adult diapers, artificial breasts, colostomy or ileostomy bags for medical use	Exempt	16%

AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
143. Inputs and raw materials used in the manufacture of passenger motor vehicles	Exempt	16%
144. Locally manufactured passenger motor vehicles: Provided that in this paragraph “locally manufactured passenger motor vehicle” shall mean a motor vehicle for the transportation of passengers which is manufactured in Kenya and whose total value comprises at least thirty per cent of parts designed and manufactured in Kenya by an original equipment manufacturer operating in Kenya	Exempt	16%

AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
<p>145. Taxable goods, inputs and raw materials imported or locally purchased by a company which is-</p> <ul style="list-style-type: none">(a) engaged in business under a special operating framework arrangement with the Government; and(b) incorporated for purposes of undertaking the manufacture of human vaccines; and whose capital investment is at least ten billion shillings, subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for Health.	Exempt	16%
<p>146. 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</p>	Exempt	16%

AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
27. 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	16%	Exempt
9. Supply of Protective Apparel, Clothing Accessories and Equipment. Articles of apparel, clothing accessories and equipment specially designed for safety or protective purposes for use in registered hospitals and clinics or by county government or local authorities in firefighting	16%	0%
The exportation of taxable services	16%	Exempt

AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
The exportation of taxable services in respect of business process outsourcing	0%	Exempt
Fertilisers of Chapter 31	0%	Exempt
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	16%	Exempt

AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
66A.Bioethanol vapour (BEV) stoves classified under HS Code 7321.11.00 (cooking appliances and plate warmers for liquid fuel)	Exempt	16%
25. Inputs or raw materials locally purchased or imported by manufacturers of fertilizer as approved from time to time by the Cabinet Secretary responsible for Agriculture	0%	16%

AMENDMENTS TO THE FIRST AND SECOND SCHEDULE (EFFECTIVE 1ST JULY 2022)

Supplies	New Rate	Old Rate
<p>34. Taxable goods, inputs and raw materials imported or locally purchased by a company which-</p> <ul style="list-style-type: none">a) is engaged in business under a special operating framework arrangement with the Government; andb) is incorporated for purposes of undertaking the manufacture of human vaccines; and whose capital investment is at least ten billion shillings, <p>subject to approval of the Cabinet Secretary for the National Treasury, on recommendation of the Cabinet Secretary for Health.</p>	Exempt	16%



EXCISE DUTY ACT

Presented by: Josphat Karanja

ANNUAL INFLATIONARY ADJUSTMENT OF EXCISE DUTY RATES (EFFECTIVE 1ST JANUARY 2023)

The Finance Act, 2022 has empowered the Commissioner to exempt from this requirement certain products depending on the prevailing economic circumstances.

Inflation adjustment on specific rates of excisable goods was introduced by Section 10 the Excise Tax Act, 2015 which currently provides that:

‘the Commissioner may, with the approval of the Cabinet Secretary, by notice in the Gazette, adjust the specific rate of excise duty once every year to take into account inflation in accordance with the formula specified in Part 1 of the First Schedule’.

The amendment is a welcome addition, as it will cushion against price increases of certain products that the Commissioner may exempt from inflationary adjustments of excise duty.



EXEMPTION ON NEUTRAL SPIRIT USED FOR MANUFACTURE OF PHARMACEUTICAL PRODUCTS (EFFECTIVE 1ST JULY 2022)

The new amendment has exempted from exciseduty spirits of undenatured ethyl alcohol (neutral spirit) used in manufacture of pharmaceutical products.

Prior to this amendment, the spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 6% were subject to excise duty at Kshs 253 per litre.



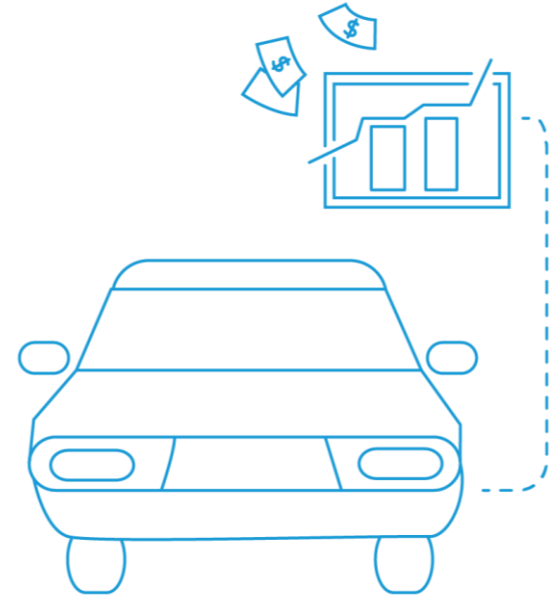
EXEMPTION ON LOCALLY MANUFACTURED PASSENGER MOTOR VEHICLES(EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has exempted from excise duty locally manufactured passenger motor vehicles.

Before this amendment, motor vehicles of tariff heading 87.02, 87.03 and 87.04 are subject to excise duty at 20% with the exception of—

- a) locally assembled motor vehicles;
- b) school buses for use by public schools;
- c) motor vehicles of tariff no. 8703 .24 .90 and 8703 .33 .90; and
- d) imported motor vehicles of cylinder capacity exceeding 1500cc.

This move will promote investment in local assembly and manufacture of passenger motor vehicles.

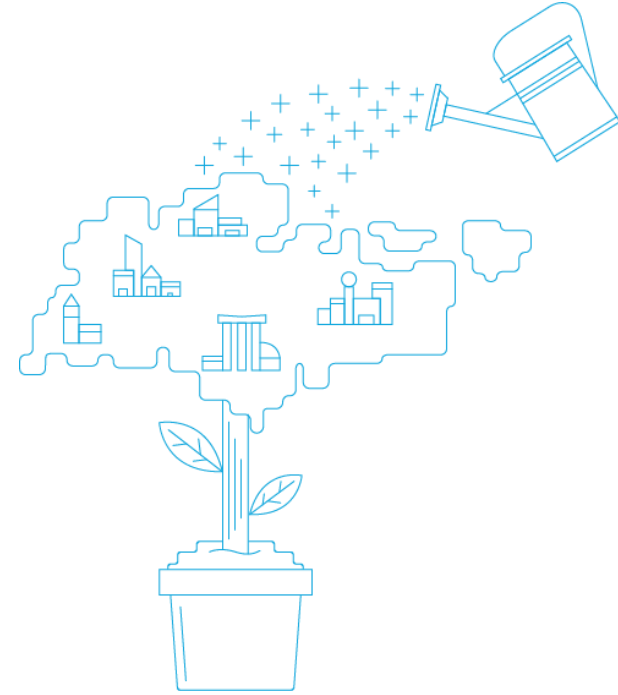


EXCISE DUTY CHARGEABLE ON LIQUID NICOTINE (EFFECTIVE 1ST JULY 2022)

The new amendment by the Finance Act, 2022 will see a change to the current taxation regime specifically for liquid nicotine by charging Kshss 70 per milliliter.

Prior to the amendment, products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the Cabinet Secretary responsible for matters relating to Health and other manufactured tobacco and manufactured tobacco substitutes that have been homogenized and reconstituted tobacco, tobacco extracts and essences are subject to an excise duty of Kshss 1,200 per kg.

The new amendment will see an increase in prices of liquid nicotine products.



DEFINITION OF EX-FACTORY SELLING PRICE (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 amends Section 11 (a) of the excise duty act by deleting the words “other than to a purchaser”.

Previously, Section 11 (a) provides that:

The ex-factory selling price of excisable goods shall be—

a) if the excisable goods are sold by the manufacturer, other than to a purchaser in an arm's length transaction, the price payable by the purchaser;

This deletion implies that the ex-factory selling price for controlled transactions at arm's length will be the price payable by the purchaser.

ENFORCEMENT OF EXCISE DUTY PAYMENTS ON IMPORTATION OF GOODS (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has amended Section 36(4) of the Excise Duty Act to provide that the penalties and interest applicable on late payment of excise duty on imports shall be in line with the rates provided for by the Tax Procedures Act i.e. 5% penalty and 1% interest per month.

The amendment also provides that where interest is charged, such interest should not exceed the principal tax due.

.Previously, Section 36(4) provides that: *For assessing, collecting, accounting and enforcing the payment of excise duty on the importation of goods into Kenya, the East African Community Customs Management Act, 2005 shall apply as if excise duty were customs duty.*

The amendment has ensured clarity on the chargeability penalties and interest on excise duty amounts due.



EXCISE DUTY PLASTICS (EFFECTIVE 1ST JULY 2022)

The new amendment has introduced excise duty on plastics of tariff 3923.90.90 at 10%.

Prior to the change, only carboys, bottles, flasks and similar articles classified under tariff 3923.30.00 are subject to excise duty at 10%.



EXCISE DUTY ON IMPORTED POTATOES, POTATO CRISPS, POTATO CHIPS, ELECTRONIC CIGARETTES AND IMPORTED READY TO USE SIM CARDS (EFFECTIVE 1ST JULY 2022)

The new amendment has introduced excise duty at 25% on potatoes of tariff 0710.10.00, 2004.10.00 and 2005.20.00.

Previously, only potatoes, fresh or chilled, of tariff 07.01 were subject to excise duty at 25%.

This means that excise duty is now applicable on all imported potatoes thus increased prices.

The Finance Act, 2022 has also changed the description to include other nicotine delivery devices and charge excise duty at 40%.

Before the amendment, electronic cigarettes were excisable at Kshs 3,787 per unit.

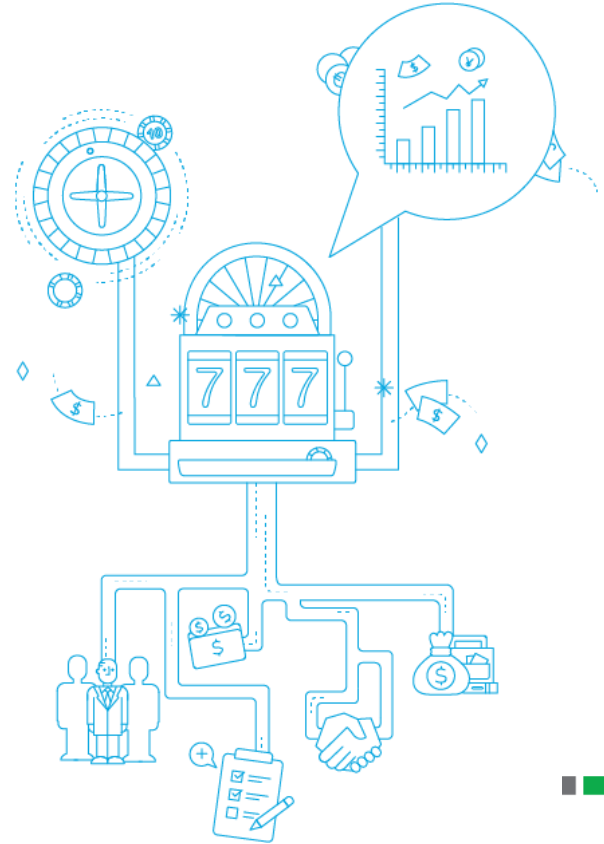
The Act has also introduced excise duty on imported ready to use sim cards at Kshs 50 per SIM card.



INTRODUCTION OF EXEMPTION FROM EXCISE DUTY ON BETTING ACTIVITIES RELATING TO HORSE RACING (EFFECTIVE 1ST JULY 2022)

The new amendment has excluded betting activities relating to horse racing from the provision of Paragraph 4A of Part II of the First Schedule to the Excise Duty Act, 2015.

The amendment means that betting activities relating to horse racing will not be subject to excise duty at 7.5% on the amount wagered or staked.



INTRODUCTION OF EXCISE DUTY ON FEES CHARGED BY DIGITAL LENDERS AND IMPORTATION OF CELLULAR PHONES (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 through an amendment to the First Schedule to the Excise Duty Act, has introduced excise duty on fees charged by digital lenders and importation of cellular phones at 20% and 10% respectively.

Prior to the change, excise duty was only applicable on other fees charged by financial institutions at 20% their excisable value. Digital lenders were not covered by this scope since they do not fall within the definition of financial institutions.

This new amendment will see an increased cost of borrowing from digital lenders as well as increased prices of cellular phones.



APPLICATION OF EXCISE DUTY ON IMPORTATION OF RAW MATERIALS (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 through the amendment of the First Schedule to the Excise Duty Act, 2015 has exempted from excise duty on specific raw materials if sourced locally.

Prior to the amendment, unsaturated polyester of tariff 3907.91.00, Alkyd of tariff 3907.50.00, Emulsion VAM of tariff 3905.91.00, Emulsion – Styrene Acrylic of tariff 3903.20.00, Homopolymers of tariff 3905.19.00 and Emulsion B.A.M of tariff 3906.90.00 were subject to excise duty at 10%, whether locally sourced or imported.

The Finance Act has now specified that that excise duty of 10% will only be applicable on importation of the said raw materials.



AMENDMENTS TO PART I OF THE FIRST SCHEDULE (EFFECTIVE 1ST JULY 2022)

Item	New Rate	Old Rate
Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Kshs 13.30 per litre	Kshs 12.17 per litre
Cosmetics and beauty products of tariff heading No. 3303, 3304, 3305 and 3307	15%	10%
Bottled or similarly packaged waters and other non-alcoholic beverages, not including fruit or vegetable juices	Kshs 6.60 per Litre	Kshs 6.03 per Litre

AMENDMENTS TO PART I OF THE FIRST SCHEDULE (EFFECTIVE 1ST JULY 2022)

Item	New Rate	Old Rate
Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 6%	Kshs 134 per litre	Kshs 121.85 per litre
Powdered beer	Kshs 134 per litre	Kshs 121.85 per kg
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	Kshs 229 per litre	Kshs 208.20 per litre

AMENDMENTS TO PART I OF THE FIRST SCHEDULE (EFFECTIVE 1ST JULY 2022)

Item	New Rate	Old Rate
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 6%	Kshs 335.30 per litre	Kshs 278.70 per litre
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	Kshs 13,296.6 per kg	Kshs 13,906.04 per kg
Cigarette with filters (hinge lid and soft cap)	Kshs 3,825.99 per mille	Kshs 3,447.61 per mille

AMENDMENTS TO PART I OF THE FIRST SCHEDULE (EFFECTIVE 1ST JULY 2022)

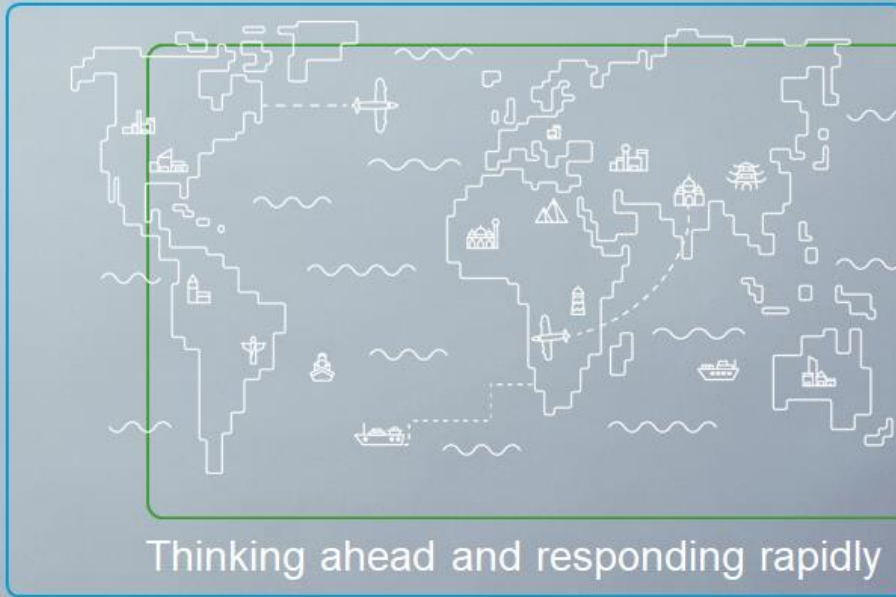
Item	New Rate	Old Rate
Cigarettes without filters (plain cigarettes)	Kshs 2,752.97	Kshs 2,502.74
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences	Kshs 10,707.88 per kg	Kshs 9,734.45 per kg
Motorcycles of tariff no. 8711 other than motorcycle ambulances and locally assembled motorcycles	Kshs 13,403.64 per unit	Kshs 12,185.16 per unit

AMENDMENTS TO PART I OF THE FIRST SCHEDULE (EFFECTIVE 1ST JULY 2022)

Item	New Rate	Old Rate
Imported sugar confectionary of tariff heading 17.04	Kshs 40.37 per kg	Kshs 36.74 per kg
White chocolate, chocolate in blocks, slabs or bars of tariff nos. 1806.31.00, 1806.32.00, and 1806.90.00	Kshs 242.29 per kg	Kshs 200 per kg.
Jewellery of tariff heading 7113 and imported jewellery of tariff heading 7117	15%	10%
Products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the Cabinet Secretary responsible for matters relating to health and other manufactured tobacco and manufactured tobacco substitutes that have been homogenized and reconstituted tobacco, tobacco extracts and essences	Kshs 1,500 2500	Kshs 1,200

AMENDMENTS TO PART I OF THE FIRST SCHEDULE (EFFECTIVE 1ST JULY 2022)

Item	New Rate	Old Rate
Ice cream and other edible ice whether or not containing cocoa of tariff number 2105.00.00	15%	0%
Fees charged by digital lenders	20%	Exempt
Importation of cellular phones	10%	Exempt
Imported furniture of any kind used in offices, kitchen, bedroom and other furniture	Exempt	25%



STAMP DUTY

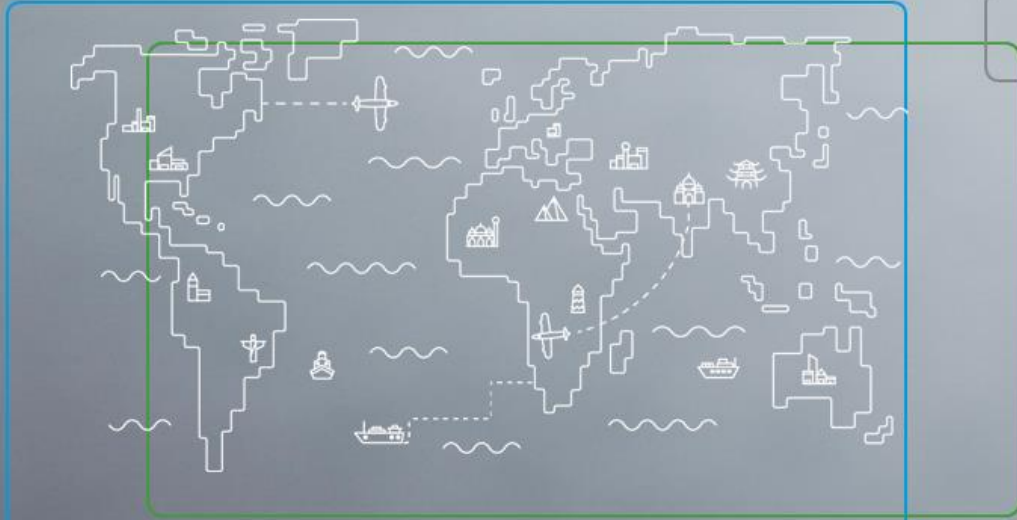
Presented by: Josphat Karanja

EXEMPTION FROM STAMP DUTY ON INSTRUMENTS EXECUTED IN FAVOUR OF A MORTGAGE REFINANCE COMPANY (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has introduced an exemption from stamp duty on instruments executed in favour of a mortgage refinance company.

This is in line with the Housing Pillar of the Government of Kenya's Big 4 Agenda as it will lead to cheaper mortgages and consequently leading to an increased mortgage uptake.





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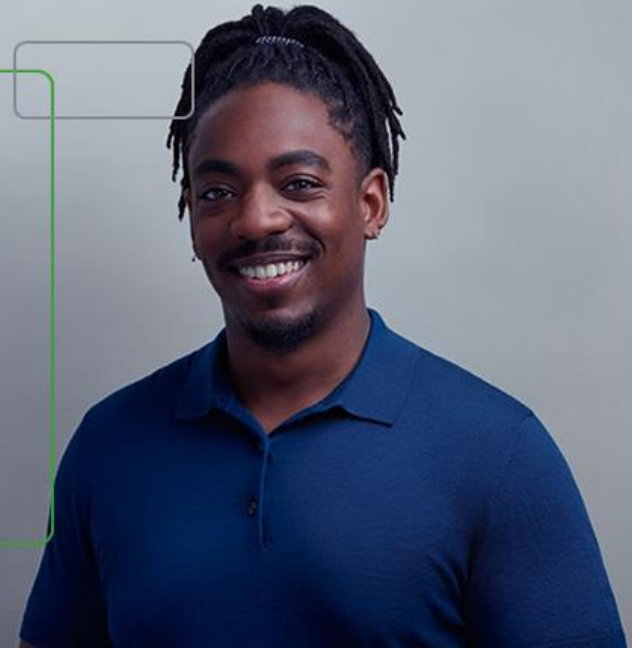


UPDATE ON THE NEW EAC COMMON EXTERNAL TARIFF

Presented by: Isaac Munyao

UPDATE ON THE NEW EAC COMMON EXTERNAL TARIFF (EFFECTIVE 1ST JULY 2022)

- The EAC Common External Tariff (“ EAC CET”) which is an important instrument governing the trade relations between EAC Partner States and the rest of the world, with respect to the import duties charged on imported products into the EAC is updated after every five years in a bid to address various challenges faced in cross border trade.
- The new version of the EAC CET which is effective 1st July 2022 has seen an adoption of a fourth band of duties with a maximum import duty rate of 35% on certain items. Prior to the change, the EAC CET only had three bands with a minimum rate of 0%,10% and a maximum of 25%.
- The products included in the new fourth band (35%) include dairy and meat products, fresh-cut flowers, potatoes and other groceries, perfumes and beauty products, paints, furniture, reservoirs, tanks, cereals, cotton and textiles, iron and steel, edible oils, beverages and spirits,, leather products, fruits and nuts, sugar and confectionery, coffee, tea and spices, textiles and garments, head gear and ceramic products among others.
- There is however some degree of flexibility on implementation of the revised CET by the respective partner states.



TAX PROCEDURES ACT

Presented by: Isaac Munyao

SUPPLY OF INFORMATION UPON CHANGE IN PARTICULARS OF TRUSTS (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has amended the Section 9(1)(b) of the Tax Procedures Act, 2015 to require the notification of change of particulars of trusts, whether the trust is carrying out any business or not.

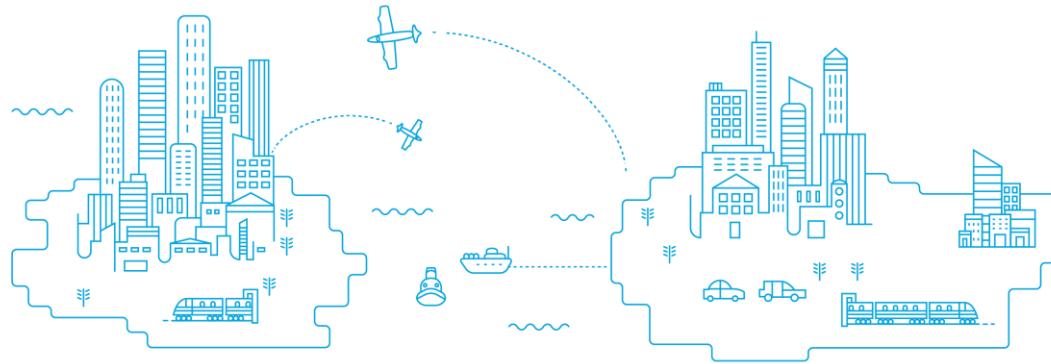
Previous provision and *amended provision*

Every person carrying on business shall , within 30 days of the occurrence of the change, notify the Commissioner of any changes –

- (a) In the place of business, trading name and registered address;
- (b) In the case of –
- (iii) A trust, the full identity and address details of trustees and beneficiaries of the trust, *whether the entity is carrying out business or not.*

AMENDMENTS OF ASSESSMENTS (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has amended Section 31 (4) of the Tax Procedures Act, 2015 to add a proviso that in case of VAT, the input tax shall be allowable for a deduction within 6 months after the end of the tax period in which the supply or importation occurred to align this with the VAT Act provisions.



EXPANSION OF DEFINITION OF SECURITY ON PROPERTY FOR UNPAID TAX (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has passed the following amendments to the Tax Procedures Act, 2015 in relation to security on property for any unpaid tax:

The definition of “property” for which the Commissioner may use as security of unpaid taxes has now been expanded to include land or building, aircraft, ship, motor vehicle, or any other property.

A taxpayer will be required to settle the outstanding taxes within 2 months after the Commissioner has notified the taxpayer that he has attached the property as security for unpaid tax with the various property Registrars / Director Generals, failure to which the Commissioner will be allowed to auction the property at the taxpayer’s cost to collect the unpaid taxes.

Where there is an agreed payment plan between a taxpayer and the Commissioner, the tax liability shall be settled within the agreed payment plan before the Commissioner’s notice is lifted.



OFFSET OR REFUND OF OVERPAID TAX (EFFECTIVE 1ST JULY 2022)

Section 47 of the Tax Procedures Act, 2015 has been amended where a person may apply to the Commissioner for any overpaid taxes where:

- To offset future tax liabilities; or
- For a refund of the overpaid tax within 5 years or 6 months (in case of VAT), after the date on which the tax was overpaid.

Where a taxpayer prefers a refund of overpaid tax, the same will be receivable by a taxpayer within 2 years from the date of application.

The refund application timeline for Value Added Tax has been reduced to 6 months from 2 years.

Once such application has been made, the Commissioner will have up to 90 days to make a determination. Where the Commissioner fails to ascertain and determine an application made within the 90 days, such an application will be deemed ascertained and approved.

Any overpaid instalment taxes can be applied for offset against future instalment taxes liabilities.

REFUND OF TAX PAID IN ERROR (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has amended Section 47A of the Tax Procedures Act, 2015 by introducing a provision where a person may be allowed to apply for a refund taxes paid in error.
- Additionally, a person will be allowed to apply for a refund of tax paid in error in relation to a zero-rated or exempt supply and such exemption or zero rating was not processed within the specified period due to circumstances beyond the control of the taxpayer.
- The time limit of the application for the above refund of tax paid in error will be:
 - 6 months, in relation to VAT; and
 - 5 years in relation to other taxes.
- A person may apply credits relating to tax paid in error against other taxes due to the Revenue Authority.

OBJECTION TO TAX DECISION (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022 has made the following amendments with regards to taxpayer objections:

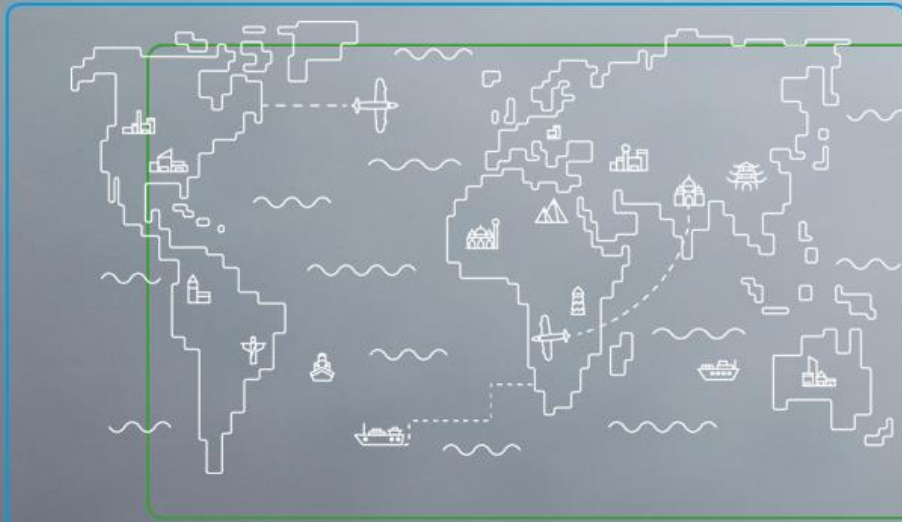
- Extension of time for the Commissioner to notify taxpayers of the validity of the objection to 14 days instead of immediately when the objection is lodged.
- Where a taxpayer applies for an extension of time to object based on a just cause, the Commissioner shall provide a taxpayer with his decision within 14 days after receipt of the application.
- The Commissioner shall provide an objection decision within 60 days from the receipt of a valid notice of objection. The Act currently does not specify the number of times that the Commissioner can request for such information on a particular case prolonging the determination of tax disputes as additional information can be requested severally and any request for additional information provides the Commissioner with an additional 60 days to make a decision.
- The amendment has deleted the proviso that failure of the Commissioner to provide an objection decision meant that the objection was allowed. This deletion now means that the taxpayer can no longer assume after the 60 days lapse that objection has been allowed.

TRANSACTIONS FOR WHICH A PIN IS REQUIRED – TRUSTS (EFFECTIVE 1ST JULY 2022)

The Finance Act, 2022, through the amendment of the First Schedule of the TPA has included registration of a trust within the list of transactions that a PIN will be required.

No clarification has been provided on whether the PINs required are the trustee PINs or the PINs of the sponsors and beneficiaries.





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MISCELLANEOUS AMENDMENTS

Presented by: Josphat Karanja

MISCELLANEOUS FEES AND LEVIES ACT, 2016

ALIGNMENT OF MISCELLANEOUS FEES AND LEVIES PENALTIES (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has amended Section 9B of the Miscellaneous Fees and Levies Act, 2016 to include unpaid levies under the purview of items chargeable to penalties and interest as per the provisions of Section 47 of the Tax Procedures Act, 2015.
- The new provision will be:
 - The provisions of Section 47 of the Tax Procedures Act, 2015 shall apply for the purposes of—
 - (b) the determination by the Commissioner of penalties and interests on fees and levies that remain unpaid.

MISCELLANEOUS FEES AND LEVIES ACT, 2016

CHANGES ON IMPORT DECLARATION FEE (IDF) AND RAILWAY LEVY (RDL) (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has amended Section 7 and Section 8 in subsection 2A of the Miscellaneous Fees and Levies Act, 2016.
- The new amendment clarifies that import declaration fee and railway development levy will be applicable at the rate of 1.5% of the custom value of raw materials, intermediate products imported by manufacturers, upon recommendation to the Commissioner by the Cabinet Secretary responsible for the matters relating to Industry.
- A similar treatment will be accorded to input for the construction of houses under an affordable housing scheme upon recommendation to the Commissioner by the Cabinet Secretary responsible for matters relating to Housing.

MISCELLANEOUS FEES AND LEVIES ACT, 2016 (CONTINUED)

ADDITIONAL DUTY ON SUPPLY FROM EPZ NOT TO APPLY TO IMPORTS BY CBK (EFFECTIVE 1ST JULY 2022)

- Section 9A of the Miscellaneous Fees and Levies Act, 2016 was amended, adding that the additional duty at a rate of 2.5% of the customs value payable in respect of goods entered for home use from an export processing zones enterprise, shall not apply to currency notes and coins imported by the Central Bank of Kenya.



MISCELLANEOUS FEES AND LEVIES ACT, 2016 (CONTINUED)

INTRODUCTION OF EXPORT LEVY ON IRON ORES AND CONCENTRATES (EFFECTIVE: 1ST JULY 2022)

- The Finance Act, 2022 through the amendment of the First Schedule of the Miscellaneous Fees and Levies Act, 2016 has introduced Export Levy of USD 175 per ton on iron ores and concentrates, including roaster iron pyrites.



MISCELLANEOUS FEES AND LEVIES ACT, 2016 (CONTINUED)

CHANGE OF DATE FOR INFLATION ADJUSTMENT (EFFECTIVE 1ST JULY 2022)

- Paragraph (1) of Part III of the First Schedule of the Miscellaneous Fees and Levies Act, 2016 has now been amended to change the date of inflationary adjustments on specific rates of export levy on goods specified in Part I of the Act.
- Prior to the change, inflationary adjustments were done at the beginning of every financial year. This has now been changed to a date not later than 1st October of every financial year.



EXEMPTION OF PHARMACEUTICAL INPUTS AND RAW MATERIALS FROM RDL AND IDF (EFFECTIVE 1ST JULY 2022)

- The Finance Act has exempted inputs and raw materials imported by manufacturers of pharmaceutical products from payment of Import Declaration Fees (“IDF”) and Railway Development Levy (“RDL”) upon recommendation by the Cabinet Secretary responsible for matters relating to Health.
- Other items also exempted include:
 - Goods imported for the use in construction and maintenance of human vaccine manufacturing plants approved by the Cabinet Secretary for the National Treasury on recommendation by the Cabinet Secretary for Health.
 - Goods, inputs and raw materials imported by a company which is:
 - engaged in the business under an operating framework arrangement with the Government; and,
 - Incorporated for purposes of manufacturing of human vaccines and whose capital investment is less than 10 billion shillings.

CAPITAL MARKETS AUTHORITY ACT

EXPANSION OF PERSONS WHO CAN ACT AS INVESTMENT ADVISORS (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has made an amendment to definition of an investment advisor by deleting paragraph (3) of Section 2 of the Capital Markets Authority Act.
- With the new amendment, an investment advisor will now not include a person or body pursuant to a contract or arrangement with a client on their behalf.
- The amendment will expand the spectrum of persons who can act as investment advisors to include single director companies and partnerships to be licensed as investment advisors.
- Previously, there is a restriction on a bona fide officer, director, trustee, member of an advisory board and an employee of a company.

CAPITAL MARKETS AUTHORITY ACT

LICENSING REQUIREMENTS (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has made an amendment to licensing requirements as previously, the applicant was a company incorporated under the Companies Act with such minimum share capital, and replacing it with the applicant being such legal entity as may be prescribed in the Regulations.
- The Act has also amended the previous requirement where at least one director and at least ~~one employee who is the chief executive of the applicant company~~ have director, chief executive officer or such other person who directs, conducts, manages or supervises the business of the applicant has satisfied such minimum qualification requirements as may be prescribed.

KENYA ROADS BOARD ACT, 1999

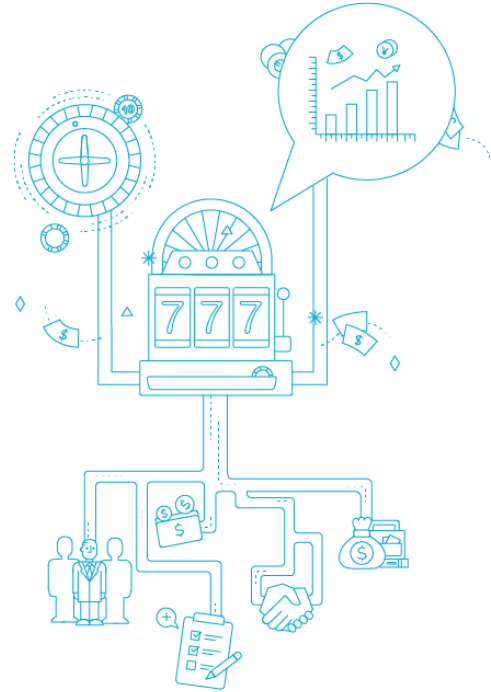
CHANGES TO KENYA ROADS BOARD ACT (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has amended Section 6, paragraph 2(c), to provide that the board shall manage funds and allocate monies from the Fund: 50% of the funds allocated equitably to district road committees and to all constituencies in the country. For the other 50% of the funds, if in exceptional circumstances, the Ministry of Finance may, with approval of the Parliament, make advances to the board and such advances shall be made on such terms and conditions of repayment or otherwise.
- Previously, the board was responsible to administer the funds derived from the fuel levy and any other funds that may have accrued to it.

BETTING, LOTTERIES AND GAMING ACT

BETTING TAX NOT APPLICABLE TO HORSE RACING (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 has amended Section 29A, to exempt horse racing from betting tax.



ROAD MAINTENANCE LEVY FUND ACT

ROAD MAINTENANCE LEVY TO FUND THE CONSTRUCTION OF ROADS (EFFECTIVE 1ST JULY 2022)

- With the new amendment of Section 3(2) of the Road Maintenance Levy Fund Act, out of the levy collected from road maintenance, an amount of Kshs 3 per litre of petroleum sold must be paid to the Road Annuity Fund which will fund the construction of roads under the Road Annuity Programme and similar roads approved by the National Assembly.

UNCLAIMED FINANCIAL ASSETS ACT

INTRODUCTION OF WAIVER AND VOLUNTARY DISCLOSURE PROGRAM (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 through the introduction of a new Section 33A, has introduced waiver of penalties, fines and audit fees in justifiable circumstances as well as to cap accumulation of penalties and interest to the value of the asset.
- Further, the amendment has introduced 12-month Voluntary Disclosure Program to grant relief of penalties on the unclaimed financial assets declared and delivered in the next 12 months from 1st July 2022 and shall apply for assets held up to 30th June 2022 .
- A holder who discloses, reports and delivers the unclaimed financial assets within 12 months from 1st July 2022 shall not be liable to the penalties and interest payable.

STATUTORY INSTRUMENTS ACT

AUTOMATIC REVOCATION OF STATUTORY INSTRUMENTS (EFFECTIVE 25TH JANUARY 2023)

- The Finance Act, 2022 has amended the Statutory Instruments Act to extend tax related regulations under various tax laws from automatic expiry by 24 months.
- The Act, prior to the change, provided for automatic expiry of statutory instruments after 10 years from the date of their publication. The amendment will therefore prevent any negative effect on tax administration and revenue collection that would arise upon expiry of the instruments.

STATUTORY INSTRUMENTS ACT

STATUTORY INSTRUMENTS RELATING TO TAXES, LEVIES OR FEES (EFFECTIVE 1ST JULY 2022)

- The Finance Act, 2022 further amended the Statutory Instruments Act under Section 15, to provide that for any statutory instrument which contains provision dealing with tax related regulations or public funds, the National Assembly shall consider the notice and make a resolution either to approve or reject the notice within 28 sitting days after laying of statutory instruments before Parliament.

ITEMS PREVIOUSLY IN THE FINANCE BILL BUT DID NOT GET ASSENT IN THE FINANCE ACT

- Change of digital services tax from 1.5% to 3%.
- Requirement for a taxpayer to deposit 50% of tax in dispute prior to appealing a ruling by the Tax Appeals Tribunal.
- Change of excise duty rate on products containing nicotine or nicotine substitutes intended for inhalation without combustion or oral application but excluding medicinal products approved by the Cabinet Secretary responsible for matters relating to Health and other manufactured tobacco and manufactured tobacco substitutes that have been homogenized and reconstituted tobacco, tobacco extracts and essences from Kshs 2,500 to Kshs 1,500.

ITEMS PREVIOUSLY IN THE FINANCE BILL BUT DID NOT GET ASSENT IN THE FINANCE ACT

- Change of excise duty rate on bottled or similarly packaged waters and other non-alcoholic beverages, not including fruit or vegetable juices from Kshs 6.03 per litre to Kshs 6.60 per litre.
- Introduction of excise duty on all glass bottles (excluding glass bottles for packaging of pharmaceutical products) at 25%.
- Increase of excise duty rate on betting, gaming, price competition and lottery (excluding charitable lotteries) from 7.5% to 20%.
- Exemption of fertilized eggs of tariff numbers 0407.11 and 0407.19 eggs for hatching imported by licensed hatcheries upon approval by the responsible CS from excise duty.

Thank you for
your time and
attention

A portrait of a smiling Black man in a dark pinstriped suit, light blue shirt, and teal tie. To his left is a callout box with a green border containing the text 'Questions and answers?'. A blue line connects the box to a small grey box on the man's forehead.

Questions
and answers?



RSM EASTERN AFRICA

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- Collaboration
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treat others as we would like to be treated

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do the right thing

We stay true to our beliefs in:

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Negotiations
Communications



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work together effectively

We cultivate genuine collaboration:

In work groups
Across member firms
Across functions
Amongst leaders



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We achieve distinction through:

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Our operations
The work we deliver



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We make RSM a better place by:

Developing our people
Building our brand
Supporting our communities



KNOWLEDGE

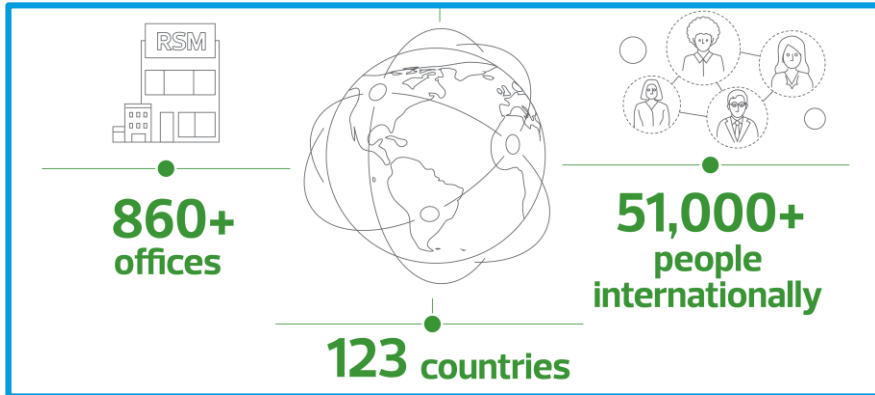
being innovative and inquisitive

We connect the dots by:

Reading
Learning
Sharing

RSM International

A world leading provider of audit, tax and consulting services to entrepreneurial growth-focused organisations globally.



RSM Financial Year 2021

GLOBAL HIGHLIGHTS



Revenue growth of 15.8% from \$6.3bn to **\$7.26bn**

KEY SERVICE LINE HIGHLIGHTS



38%

growth in consulting services



8%

growth in audit services



8%

growth in tax services



19%

growth in accounting services



RSM Eastern Africa

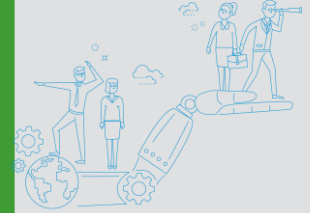
4
Offices



10
Partners /
Directors



204
Minds



Recognitions and Awards



Tax Advisory Firm of 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 & 2022 in Kenya by the ACQ Finance Magazine



Professional Development



Trainee Development - Platinum

Accredited Certification Body

DEUTSCHES INSTITUT FÜR KLEINE
UND MITTLERE UNTERNEHMEN...

Certified Entrepreneur
to German Standards



InterContinental
FINANCE & LAW

2018
COUNTRY AWARDS
Tax Advisory & Auditing
Firm of the Year
Africa



Tax and Auditing Firm of 2012, 2013, 2014, 2016, 2017 & 2018 by the InterContinental Finance & Law Magazine

Our Services

AUDIT & ASSURANCE

- Statutory audits including listed companies
- International Financial Reporting Standards (IFRS) guidance
- Audits and reviews of donor-funded projects

TAX SERVICES

- Corporate and personal tax compliance and consulting
- Corporate restructuring
- Health checks
- International tax and transfer pricing
- Tax policy advisory
- Managing revenue authority and tax dispute resolutions

MANAGEMENT CONSULTING

- Corporate strategy
- Governance
- Business reviews
- Family businesses and succession planning
- Documenting policies and procedures
- Review of management information systems
- Design and implementation of accounting systems
- Preparation of accounting manuals

RISK ADVISORY

- Internal audits
- Investigation and forensic accounting services
- Information technology and systems audits

OUTSOURCING

- Bookkeeping
- Management accounts
- Payroll services
- Grant management
- Budgeting and cash flow forecasting

TRANSACTION ADVISORY

- Mergers and acquisitions
- Due diligence
- Valuations
- Transaction support and legal contract reviews
- Litigation support
- Corporate restructuring and turnaround

KEY INDUSTRY EXPERIENCE



Manufacturing –
retail/consumer
products



Real estate &
construction



Non-governmental
organisations



Trading



Hospitality



Horticulture &
floriculture



Logistics and
aviation



Health & education



Service industries







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THANK YOU