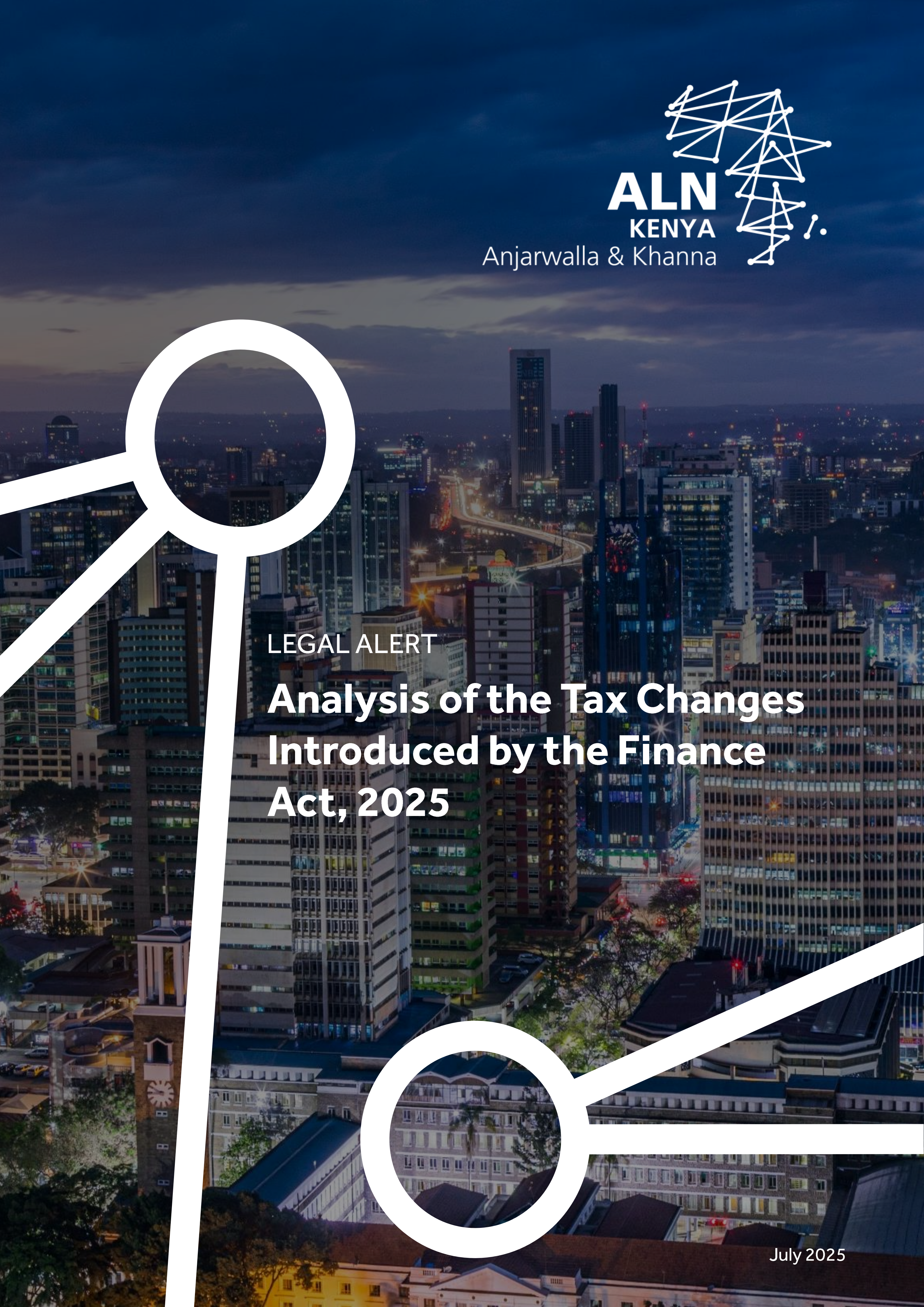

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LEGAL ALERT

Analysis of the Tax Changes Introduced by the Finance Act, 2025

July 2025

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Introduction

The Finance Act, 2025 (the Act) was assented into law by the President on 27 June 2025 and thereafter published in the Kenya Gazette. The Act sets out a wide range of changes to Kenya's tax laws, including the Income Tax Act (Chapter 470), the Value Added Tax Act (Chapter 476), the Tax Procedures Act (Chapter 469B), the Miscellaneous Fees and Levies Act (Chapter 469C), and the Excise Duty Act (Chapter 472).

All provisions in the Act came into effect on 1 July 2025, except for the new provisions introducing Advance Pricing Agreements into the transfer pricing regime, and collection of import declaration fee under the Miscellaneous Fees and Levies Act, which will take effect on 1 January 2026.

We had previously provided an analysis of the Finance Bill 2025. We provide an update by way of this detailed analysis of the key changes in the Act and their potential impact on taxpayers and businesses operating in Kenya.

1. AMENDMENTS TO THE INCOME TAX ACT

The Act has made various changes under the Income Tax Act (the ITA) which are intended to promote investments, expand the tax base, harmonise the existing provisions and reduce the incentives that are currently available in the income tax regime.

We have set out below key income tax changes below:

a) Restriction on Carry-Forward of Tax Losses

Effective Date: 1 July 2025

The Act has restricted the carry-forward period for tax losses to the succeeding five (5) years. This provision has evolved over the years, in particular, prior to 1st January 2016, the carry-forward of losses was restricted to the succeeding four (4) years of income. This was subsequently amended by the Finance Act, 2015 to nine (9) years, before the deletion of the provision by the Finance Act, 2021, which allowed the losses to be carried forward indefinitely.

The implication of this amendment is that taxpayers with tax losses older than five (5) years from the effective date may lose the ability to utilise those losses against future taxable income. Businesses, particularly those in industries with long recovery periods (such as, startups, manufacturing, or capital-intensive sectors), may face increased financial strain due to the inability to carry forward losses as has been the case.

This provision will impact taxpayers with losses that have accumulated over many years, who could face an immediate write-off of those losses, effectively reduce their tax shields and increase their tax liability.

However, the Act, also allows taxpayers who have been unable to extinguish their tax losses within five (5) years, to apply to the Cabinet Secretary, through the Commissioner for extension of the period of deduction.

b) Changes in the Taxation of Betting

Effective Date: 1 July 2025

The Act has introduced changes to the betting regime by changing the way punters are taxed. This provision was introduced during the Parliamentary enactment process and was not initially included in the Finance Bill 2025. Previously, winnings from betting or gaming were subject to withholding tax of 20% on the winnings less the amount staked or wagered. Punters will now be subject to withholding tax at the rate 5% on the withdrawals. The term 'withdrawals' has been defined to mean the amount of money withdrawn by a customer from their betting or gaming wallet maintained by a person licensed under the Betting Lotteries and Gaming Act (Chapter 131).

The impact of the new provisions is that withholding tax would now apply on any amount withdrawn by a punter, including amounts deposited into their betting wallet, irrespective of whether a gain has been derived by the punter.

This provision was meant to provide some clarity on the issue of what "winnings" comprises, as this has been the subject of various tax litigations in Kenya as from 2019 to date. However, it may open a new slew of issues noting that the new definition may also be the subject to judicial interpretation.

c) Introduction of Advance Pricing Agreements in the Transfer Pricing Regime

Effective Date: 1 July 2025

The Act has introduced Advance Pricing Agreements (APA) provisions which empower the Commissioner to enter into APAs with taxpayers on how transfer pricing regulations should apply to their related party transactions. The APAs entered with the Commissioner shall be valid for a period of five (5) years. However, they may be voided if the Commissioner establishes that the taxpayer misrepresented facts at the time of entry into the APA with the Commissioner. The new provisions provide that Advance Pricing Agreements shall be considered when determining the amount which is expected to accrue if the business contemplated, was conducted at arm's length.

The provision also mandates the Cabinet Secretary to make regulations for better implementation of the APAs. In this regard, the Cabinet Secretary is expected to issue guidelines to assist the Kenya Revenue Authority (KRA) in fast tracking the roll out of the APAs.

The introduction of APAs comes as a welcome move as it fosters the establishment of a business-friendly environment and will provide the much-needed clarity and certainty as to how the related party transactions would be treated from a tax perspective and potentially reduce transfer pricing tax disputes. This will be helpful in potentially reducing transfer pricing tax disputes. This addition also aligns with global standards, as well as other EAC countries such as Rwanda, Uganda and Tanzania which have introduced APAs in their domestic tax legislation.

d) Broadening the Scope of SEPT Regime

Effective Date: 1 July 2025

The Significant Economic Presence Tax (SEPT) which was introduced by the Tax Laws (Amendment) Act, 2024 initially applied to non-resident persons deriving income from the provision of services in Kenya through a business carried out over a digital marketplace. The Amendment Act also exempted non-resident persons with an annual turnover of less than KES 5 million from SEPT.

The Act has deleted this provision, thereby providing that SEPT shall apply to all non-resident persons who derive income from Kenya through a business carried out over the internet, electronic network or a digital marketplace regardless of their annual turnover.

The implication of this amendment is the indiscriminate application of SEPT which beats the purpose of a selective approach of identifying “significant economic presence” by non-residents. The essence of SEPT is to only subject this tax to non-residents who have a “significant economic presence” in Kenya. In Nigeria, for example, which is the only other African country with a SEPT regime, non-residents are subject to SEPT only if they derive income of approximately USD 65,000 in a year from the relevant activities conducted in Nigeria.

It is also our view that the effort that will be required to monitor implementation of SEPT without a turnover threshold will make it difficult for the KRA to effectively administer the application of SEPT in Kenya.

e) Preferential Tax Regime for Investors in the Nairobi International Financial Centre

Effective Date: 1 July 2025

The Government has in the recent past introduced various changes intended to provide a preferential tax regime to investors certified by the Nairobi International Financial Centre Authority (NIFCA) to promote and encourage investments under the NIFCA regime. These changes include the introduction of a preferential capital gains tax rate of 5% for companies certified by NIFCA in the Tax Laws (Amendment) Act, 2024.

The Act has now introduced a preferential corporate tax rate of 15% for the first ten years from the year of commencement of its operations and 20% for the subsequent ten years of its operation provided the following conditions are met:

a) the company invests at least KES 3 billion in Kenya in the first three years of operation;
b) where the company is a holding company, at least 70% of its employees in senior management are citizens of Kenya; and
c) where the regional headquarters of the company is in Kenya, at least 60% of its employees in senior management are citizens of Kenya; and

In the case of a start-up certified by NIFCA, a corporate tax rate of 15% for the first three years and 20% for the succeeding four years shall apply.

Additionally, the Act has introduced a withholding tax exemption on dividends paid by a company certified by NIFCA where the company reinvests at least KES 250 million in Kenya in that year of income.

The preferential corporate tax rates and withholding tax exemption on dividends are intended to encourage the uptake of the NIFCA regime by investors and promote investments in the country.

f) New CGT Exemption on Transfer of Property to a Company Held by an Individual

Effective Date: 1 July 2025

The Act has amended the Eighth Schedule to the ITA to introduce a CGT exemption on transfer of assets to a company where an individual holds 100% shareholding in the company. The amendment is a welcome move as it will enable individuals who, for personal or estate planning purposes, wish to hold their assets through a company, to do so without triggering CGT. While the amendment seeks to exempt such transfers from CGT, any transfers by an individual to a company wholly owned by them would still trigger stamp duty, which will range from 1% to 4% of the value of the property, depending on the type and location of property.

g) Investments Within SEZs and Outside Nairobi City and Mombasa Counties to Continue to Benefit from Enhanced Investment Deduction

Since July 2022, a person who makes significant capital investments outside of Nairobi City County and Mombasa County subject to meeting certain conditions or makes an investment in a Special Economic Zone, is eligible for an investment deduction of 100% of the capital expenditure incurred. The practical implication was that an investor received a tax shield on the capital invested, and therefore did not need to pay corporation taxes until the investment deduction had been exhausted.

The Finance Bill had proposed to delete the investment deduction, but this proposal has been shelved, therefore, investors will continue to enjoy investment deduction of 100% of the capital expenditure incurred outside of Nairobi City County and Mombasa County.

h) Relief for Housing Developers and Local Motor Vehicle Assemblers as Rebates are Retained

The Finance Bill had proposed to delete the 15% income tax rebate available to companies who construct at least one hundred residential units annually, which had been introduced on 1 January 2017, with the intention to encourage developers to construct affordable housing under the previous government's Big Four Agenda. Similarly, the Finance Bill had also proposed to delete the preferential corporate tax rate of 15% which is available to local assemblers of motor vehicles in their first 5 years of operations.

The two proposals have been shelved, which is a commendable move to continue incentivising the affordable housing and motor vehicle assembly industries.

i) Clean Up on Taxation of Pensions and Gratuity

Effective Date: 1 July 2025

The Government's Medium Term Revenue Strategy for FY 2024/25 to 2026/27 published by the National Treasury and Economic Planning in September 2023 (the MTRS) provides for review of the taxation of pension as one of the tax policy reforms to be implemented gradually within the period FY 2024/25 to FY 2026/27. The pension tax structure was therefore intended to be reviewed from 'exempt-exempt-tax' model which means that contributions to pension funds are exempt from tax, investment income of a pension fund is exempt from tax but the pension income withdrawn by members is subject to tax, to an 'exempt-exempt-exempt' model where pension contributions, investment income of pension funds and the withdrawal of pension income, are all exempt from tax.

The Tax Laws (Amendment) Act, 2024 introduced an exemption on withdrawal of pension benefits from registered pension funds, registered provident funds, registered individual retirement funds, public pension schemes or the National Social Security Fund. The exemption was however limited to withdrawals by persons who have been members of a fund for at least 20 years.

In a clean-up exercise, the Act has deleted Section 8 (4) of the ITA which limited the exemption on pension income / withdrawals to the first KES 300,000 of the total pensions and retirement annuities received by a resident individual from a registered fund or the National Social Security Fund in a year of income. This means that in line with the MTRS strategic policy, withdrawal of income from pensions for persons who have been members of a fund for at least 20 years is now exempt from tax.

The Act has further exempted all gratuity payments from tax. Previously, only gratuity paid under a public pension scheme were exempt from tax. The two proposals have been shelved, which is a commendable move to continue incentivising the affordable housing and motor vehicle assembly industries.

j) Scrapping of Digital Asset Tax

Effective Date: 1 July 2025

The Act has repealed the Digital Asset Tax (DAT) which was a tax imposed on income derived from the transfer of digital assets, at the rate of 3% of the transfer or exchange value of digital assets. The Finance Bill, 2025 had proposed reduction of the tax rate from 3% to 1.5%.

DAT was initially introduced by the Finance Act, 2023 with the objective of expanding the tax base by subjecting to tax any gains from transfer of digital assets. We point out that since its introduction, there has been no framework or regulations introduced to provide further guidance on implementation of DAT.

The repeal of DAT appears to be a deliberate move by the government to rethink and redesign the tax framework for taxation of digital assets, with the aim of reintroducing the tax in a form that ensures more effective and seamless implementation.

k) Other Noteworthy Income Tax Changes

Effective Date: 1 July 2025

a. *Application of Reliefs in Computation of Employment Taxes* – The Act has introduced a provision requiring employers to apply all applicable deductions, reliefs and exemptions provided under the ITA before computing tax due on their employees' income. This is a move to ensure that employees take advantage of all the reliefs and deductions available for employment income taxes.

b. *Increased Threshold for Taxable Per Diem Amounts* – Currently, the non-taxable threshold for reimbursements to employees for purposes of subsistence, travelling, entertainment and other allowances (per diems) is KES. 2,000 per day, and the Act has revised this threshold to KES 10,000, which is a welcome amendment.

c. *Extended Period for Issuing Tax Exemption Certificates to Charitable Organisations* – the Act has extended the period in which the Commissioner may issue a tax exemption certificate upon lodging an application for tax exemption under the ITA from sixty to ninety days. This is to allow the Commissioner adequate time to review the application and make an appropriate determination.

2. AMENDMENTS TO THE TAX PROCEDURES ACT

Effective Date: 1 July 2025

a) Express Requirement for the Commissioner to Provide Reasons when Amending Assessments

The Act has amended Section 31 of the Tax Procedures Act (TPA) by introducing a new subsection (8A), which imposes an express obligation on the Commissioner to provide reasons for any amended assessment issued. Pursuant to the new provision, where the Commissioner makes an amended assessment, the notification to the taxpayer must include the reasons underpinning the amendment.

This development enhances transparency and procedural fairness in tax administration by codifying the Commissioner's duty to explain the basis of revised assessments, thereby enabling taxpayers to understand and, where necessary, effectively challenge such assessments.

b) Relief from Withholding Tax Liability Where a Recipient Has Paid Full Principal Tax

The Act has introduced Section 39A (2), which provides that where a withholding agent does not deduct, withhold or remit tax on a payment, they shall not be required to pay the principal tax where the recipient of the payment has paid and accounted for the full principal tax. This is a welcome move as it provides reprieve to taxpayers who have been penalised by paying the entire principal sum of tax not withheld, even if the recipient has accounted for the income tax, resulting in an instance of double taxation and unfair enrichment on the part of KRA.

c) Disposal of Property for Settlement of Unpaid Tax to be Exempt from Stamp Duty

The Act has amended Section 40 (5) of the TPA by inserting a provision that exempts the transfer of property for purposes of tax recovery from the payment of stamp duty. Given that stamp duty is ordinarily borne by a purchaser, the provision is intended to make it easier and faster for the Commissioner to undertake a forced sale and attractive to purchasers to acquire distrained property since the transfer of the property would be exempt from stamp duty.

d) Recovery of Tax from Non-Resident Taxpayers

The TPA has been amended in Section 42 (1) and (2) by expanding the Commissioner's powers to enforce tax recovery against non-resident persons liable to tax in Kenya. Under the revised provisions, the Commissioner is now empowered to direct a third party or agent, such as a local financial institution or intermediary, to remit to the KRA any sums due or accruing to a non-resident taxpayer for purposes of settling outstanding tax liabilities.

This amendment is intended to strengthen the enforcement framework by enabling the KRA to recover taxes from non-residents who may default on their obligations and subsequently exit the jurisdiction without making payment. The provision enhances the Commissioner's reach by effectively compelling local agents to intercept and remit funds on behalf of non-compliant non-residents. It is likely that the powers of the Commissioner under this provision will be challenged, and we expect to see judicial interpretation on how this power can be exercised in due course.

Importantly, the Act omits the previously proposed provision that would have allowed the KRA to issue agency notices even where an appeal is pending before the High Court, thereby upholding taxpayer rights to due process and safeguarding the integrity of the appellate process.

e) Mandatory Certificate of Origin for all imports

The Act has introduced a new Section 44A, establishing a mandatory requirement for the presentation of a Certificate of Origin (CoO) for all goods imported into Kenya. Under this provision:

a. no person shall import goods into Kenya without submitting a valid Certificate of Origin to the Commissioner or an authorised officer;

b. the Commissioner or an authorised officer is prohibited from processing import entry documentation in the absence of a valid CoO;

c. prior to clearing goods for entry into Kenya, the Commissioner or an authorised officer shall require the production of a CoO, along with any supporting documentation as proof of origin.

This amendment is intended to enhance customs enforcement, promote accurate origin verification, and ensure compliance with preferential trade regimes such as the EAC Customs Union. Importers are therefore advised to ensure that all consignments are accompanied by a valid and complete Certificate of Origin to avoid regulatory penalties and delays in clearance.

f) Set Off of Overpaid Taxes Against Import VAT

Previously, taxpayers were permitted to offset overpaid taxes against input VAT, a mechanism that was conceptually and operationally impractical, given that input VAT typically represents a credit rather than a liability.

The Act has amended Section 47(1)(a) of the TPA by replacing the phrase *"input value added tax"* with *"value added tax payable on imports."* This amendment serves as a much-needed clean-up of the provision, which previously created practical inconsistencies. The amendment provides a welcome relief for importers, who may now apply overpaid tax amounts to offset VAT obligations incurred at the point of customs clearance. This adjustment is expected to ease cash flow constraints and streamline tax compliance for businesses engaged in cross-border trade.

g) Timelines for Tax Refund Decisions

The Act has amended Section 47 (2), (3) and (4A) of the TPA to revise the timelines within which the Commissioner is required to respond to taxpayers on matters relating to tax refunds and offsets by extending the period within which the Commissioner shall be required to ascertain an offset or refund application to 120 days from 90 days. Where the Commissioner subjects the application to an audit, the period within which the Commissioner must ascertain an offset or refund application has been increased from 120 days to 180 days.

While the intention behind extending the prescribed timelines may be to accommodate the increasing volume of refund applications processed by the Commissioner, the amendment is likely to have the unintended consequence of slowing down the refund and offset process. This may, in turn, adversely affect taxpayers' cash flow.

h) Cabinet Secretary's Power to Waive Penalties and Interest due to System Errors

The Act has introduced a new provision under Section 89(5) of the TPA, empowering the Cabinet Secretary to waive penalties or interest, upon recommendation by the Commissioner, where:

a. an error is generated by an electronic tax system;
b. a delay in the updating of the electronic tax system;
c. a duplication of penalty or interest due to a malfunction of an electronic tax system; or
d. the incorrect registration of the tax obligations of the taxpayer.

This is a welcome relief provision that recognises the practical challenges posed by system-driven errors, often arising with no fault of a taxpayer. It provides a legal mechanism for redress in cases where taxpayers are unfairly penalised due to system failures, helping restore fairness and trust in digital tax administration.

3. AMENDMENTS TO THE VALUE ADDED TAX ACT

Effective Date: 1 July 2025

The Act has introduced various changes to the Value Added Tax Act (the VAT Act) which are aimed at enhancing efficiency in revenue administration. We have highlighted the major changes below:

a) VAT Adjustment on Misuse of Exempt or Zero-Rated Supplies

The Act has introduced a new provision requiring a person who imports or purchases goods or services that are exempt or zero-rated, and subsequently disposes of or uses them in a manner inconsistent with the original purpose for which the exemption or zero-rating was granted, such person will be liable to pay VAT at the applicable rate in effect at the time of the disposal or inconsistent use.

This amendment is aimed at closing tax loopholes and preventing abuse of VAT exemptions and zero-rating provisions. We expect guidelines to be issued in due course to provide guidance on the implementation of the provision.

b) Changes to Provisions on VAT Refunds Arising from Bad Debts

The Act has reduced the timelines for a taxpayer to apply for a VAT refund on bad debts from the current 3 years to 2 years after the date of the supply. This amendment means that taxpayers can now initiate refund claims for VAT on unpaid supplies more promptly. Notably, the deadline for lodging such a refund claim is 10 years.

Additionally, the Act has introduced a new option allowing taxpayers to offset VAT refunds arising from bad debts against other VAT liabilities upon the approval by the Commissioner. This amendment offers an alternative mechanism to utilise bad debt VAT credits and is a welcome move.

Finally, the Act has repealed the provision that required a registered person to refund tax to the Commissioner within 60 days of recovering a bad debt from the recipient of the supply, along with the associated penalties for non-compliance.

c) Reduction of Timelines for Lodging a Tax Refund Claim

The Act has reduced the statutory timeline for lodging a claim for refund of VAT reducing it from 24 months to 12 months from the date the tax becomes due and payable. The amendment aligns the VAT Act with the refund application timelines set out under the TPA. Taxpayers would therefore need to be vigilant to ensure that they are not time-barred form lodging a refund claim.

d) Requirement to raise a tax invoice for all supplies

Taxpayers are required to furnish a purchaser with a valid tax invoice for all supplies whether taxable or exempt. Previously, the VAT Act only expressly provided that tax invoices should be issued for taxable supplies. This amendment aligns with the ETIMS regulations.

e) Changes to VAT Treatment of Certain Goods

The Act has introduced several changes to the VAT treatment of goods and services across various sectors. Most of the changes relate to the First Schedule, with new exemptions introduced, some existing exemptions removed, and the scope of other exemptions varied. There is also one notable change to the Second Schedule which zero-rates the supply of packaging materials for tea and coffee upon recommendation by the Cabinet Secretary responsible for agriculture.

These amendments introduced by the Act affect industries such as manufacturing, mining, health, agriculture, and the defence sector, and will have implications for VAT recoverability and overall tax costs for affected businesses.

Click here to download and read a summary of the amendments per sector.

4. AMENDMENTS TO THE EXCISE DUTY ACT

Effective Date: 1 July 2025

a) Alignment of Tariff Classification under the Excise Duty Act with the EAC Common External Tariff

The Act has introduced a new provision requiring goods listed in the Excise Duty Act (EDA) to be classified in accordance with the tariff codes set out in Annex 1 to the Protocol on the Establishment of the East African Community Customs Union (the EAC Common External Tariff). The provision further provides that the general rules of interpretation contained in the EAC Common External Tariff will apply when interpreting the classification of goods under the EDA.

This amendment is a welcome development as it provides clarity on how goods are to be classified under the EDA. Whilst this has been the practice, it was not explicitly provided for in the law. By expressly referencing the EAC Common External Tariff and its general rules of interpretation, the amendment codifies existing practice and enhances legal certainty for taxpayers and administrators alike.

b) Expansion of the Definition of "Digital Lenders"

The Act has amended the definition of the term "digital lender" to mean *"a person extending credit through an electronic medium but does not include a bank licensed under the Banking Act, a Sacco society registered under the Co-operative Societies Act, or a microfinance institution licensed under the Microfinance Act."* This amendment has further amended the definition that was introduced in the EDA by the Tax Laws (Amendment Act), 2024, which took effect on 27 December 2024, which defined "digital lender" as *"a person holding a valid digital credit provider's license issued by the Central Bank of Kenya."*

The amendment broadens the scope of persons considered to be "digital lenders" for Excise Duty purposes by shifting from a regulatory-based definition to a functional one, that is, persons extending credit through an electronic medium. The import amendment is to include into the definition of "digital lenders" unregulated lenders who were previously outside the scope of the definition due to the lack of licensing by the Central Bank of Kenya.

The amendment has further clarified that digital lenders do not include traditional financial institutions such as banks licensed under the Banking Act (Chapter 488), Sacco societies registered under the Cooperative Societies Act (Chapter 490), or microfinance institutions licensed under the Microfinance Act (Chapter 493C).

c) Expansion of the Scope of Excisable Services Offered Through Digital Platforms by Non-Residents

The Tax Laws (Amendment Act), 2024 amended the EDA to impose excise duty on excisable services offered in Kenya by a non-resident person through a digital platform effective 27 December 2024.

The Act has further amended the EDA to replace the phrase *"through a digital platform"* with *"over the internet, an electronic network or through a digital marketplace."* The import of this amendment is to capture a wide range of digital transactions into the taxing net. This is on the basis that the term *"over the internet, an electronic network or through a digital marketplace"* ensures that any digital service accessed or delivered online regardless of the infrastructure or medium used, falls within the scope.

The Act, in the same breath, has further amended the EDA to introduce a definition of the term "digital marketplace" which has been defined to mean an online or electronic platform which enables users to sell or provide services, goods or other property to other users. This amendment brings clarity to the definition of the term 'digital marketplace' further providing clarity on scope of expansion of services provided through a digital marketplace.

d) Timelines for Issuance of Excise Duty Licences

The Act has introduced a 14-day timeline within which the Commissioner must issue a decision on applications for excise duty licences, from the date of receipt of the required documents. This amendment is welcome and is aimed at enhancing administrative efficiency and providing certainty to businesses seeking to operate within the excise duty regime.

e) Introduction of the Licensing Requirements for Handlers and Importers of methanol and ethanol

The Act has introduced licensing requirements for importers, distributors, and handlers of methanol and ethanol in Kenya. The requirement for licensing aims to enhance regulatory oversight and control over the movement and use of these substances.

f) Exemption of Certain Compliance Obligations for Micro-distillers

The Act has introduced provisions exempting micro-distillers from the requirements of automation, continuous piping, and the use of mass flow meters. Instead, the production volume of a licensed micro-distiller shall be ascertained and monitored using excise stamps or such other mechanisms as the Commissioner may prescribe through a notice in the Kenya Gazette.

A "micro-distiller" has also been defined under the Act as a manufacturer of a spirituous beverage through the processes of fermentation and distillation using a still (boiler) not exceeding 1,800 litres, and whose annual production does not exceed 100,000 litres. This is a welcome change as it recognises micro-distillers under the EDA and reduces their compliance burden, thereby providing an incentive for small scale alcohol producers to formalise their businesses

g) Excise Duty Changes for Various Items

The Act has made a raft of changes to the First Schedule to the EDA as set out below:

i. *Exclusion of specific goods from the purview of Excise Duty*

The Act has deleted the following items from the First Schedule of the EDA, along with their corresponding rates. The import of these amendments is that the deleted items will no longer be subject to excise duty. This is a welcome move, as it means that these goods will cease being excisable and would be expected to become more affordable for consumers.

Product	Previous Excise Duty Rate
Imported eggs of tariff heading 04.07.	25%
Imported onions of tariff heading 07.03.	25%
Imported potatoes, potato crisps and potato chips of tariff heading 07.01.	25%
Coal	2.5% of the custom value
Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% or KES. 200 per kg, whichever is higher

Printed paper or paperboard of tariff heading 4811.41.90 or 4811.49.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% or KES. 150 per kg, whichever is higher
Cosmetics and Beauty products of tariff heading No. 3303, 3304, 3305 and 3307.	15%
Imported Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls of tariff number 3919.90.90, 6%0, 3920.43.90, 3920.62.90 and 3921.19.90 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	25% or KES. 75 per Kilogramme, whichever is higher

ii. *Amendments in Description and Rate*

The Act has made the following amendment and substitutions in the description and rates of certain imported products:

Product	Current Excise Duty Rate	New Description	New Excise Duty Rate
Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin.	35% of custom value or KES. 200 per kg.	Imported Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent reflecting or non-reflecting layer, but not otherwise worked of tariff 7005 but excluding those imported by a registered processor upon the recommendation by the Cabinet Secretary responsible for matter relating to industry and those originating from East African Community Partner States that meet the East African Community Rules of Origin.	35% of excisable value or KES. 500 per square meter whichever is higher.
Articles of plastic tariff heading 3923.30.00.	10%	Imported articles of plastic of tariff heading 3923.30.00	10%

iii. *Increase in Excise Duty on Certain Imported Products*

The Act has increased the excise duty on the following goods.

Product	Previous Excise Duty Rate	New Excise Duty Rate
Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00 but excluding those originating from East African Community Partner States that meet the East African Community Rules of Origin	25% or KES. 150 per kilogramme, whichever is higher	25% or KES. 200 per kilogramme, whichever is higher"
Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90.	25%	25% or KES. 200 per kilogramme whichever is higher
Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products) Provided that it shall not apply to glass bottles imported from any of the countries within the East African Community	35%	35% or KES.40 per kg whichever is higher
Imported ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics of tariff 6907.	5% of custom value or KES. 200 per square meter	5% or KES. 300 per square metre, whichever is higher

The effect of the change is that importers and manufacturers relying on these goods, particularly those not originating from EAC Partner States, will face higher import costs, which would likely be passed on to consumers.

iv. *Introduction of Excise Duty to specific imported products and spirits of undenatured extra neutral alcohol*

The Act has introduced excise duty on various items including self-adhesive plates, printed polymers of ethylene and spirits of undenatured extra neutral alcohol of alcoholic strength exceeding 90% purchased by licensed manufacturers of spirituous beverages.

Click here to download a summary of the products that are now subject to excise duty and the applicable rates.

v. *Change in Basis and Rate of Excise Duty on Betting, Gaming, Lotteries, and Prize Competitions*

The Act has significantly altered the basis and rate of excise duty on betting and gaming services. Previously, excise duty was charged at 15% of the amount wagered or staked. The Act now imposes excise duty at a reduced rate of 5%, but on the amount deposited into a customer's betting or gaming wallet.

The term *"amount deposited into a customer's betting wallet"* is defined to mean funds transferred by a customer into a wallet maintained by a licensed betting or gaming operator for betting or gaming purposes. This shift likely responds to ongoing disputes between taxpayers and the KRA over the appropriate tax base in respect of excise and withholding taxes in the gaming industry.

In addition, the excise duty on prize competitions and lotteries has also been reduced from 15% to 5%. This is a welcome change as it introduces clarity on the tax base and eases the tax burden on operators and consumers, potentially improving compliance and reducing litigation.

We set out below a summary of the changes:

Service	Previous Excise Duty Rate	New Excise Duty Rate
Excise chargeable on Betting with the exclusion of horse racing.	15% of the amount wagered or staked.	5% of the amount deposited into a customer's betting wallet. However, this shall not apply to horse racing.
Excise chargeable on gaming.	15% of the amount wagered or staked.	5% of the amount deposited into a customer's gaming wallet.
Excise duty chargeable on prize competition.	15% of the participation fees.	5% of the participation fees.
Excise duty chargeable Lottery (excluding charitable lotteries).	15% of the amount paid on buying the lottery ticket.	5% of the amount paid on buying the lottery ticket.

vi. Introduction of Excise Duty on Virtual Asset Transactions

The Act has introduced excise duty at the rate of 10% on fees charged by virtual asset providers for virtual asset transactions.

This marks a significant step toward taxing the digital economy and aligns with the growing global trend to regulate and tax virtual assets. While it broadens the tax base, it may also increase compliance costs for virtual asset service providers and users and thus discourage investments in this sector.

vii. Exemption of goods and services for use by the Defence Forces Welfare Services

The Act has now expressly exempted from excise duty, all goods and excisable services imported or locally acquired for use by the Defence Forces Welfare Services. This exemption aligns with incentives given to the Defence Forces Welfare Services under the VAT Act and

Miscellaneous Fees and Levies Act and is welcome move as goods and service purchased by Defence Forces Welfare Services will be cheaper.

5. AMENDMENTS TO THE MISCELLANEOUS FEES AND LEVIES ACT

Effective Date: 1 January 2026

a) Allocations for Import Declaration Fees

The Act has amended the Miscellaneous Fees and Levies Act (MFLA) to increase the percentage of the Investment Development Fees (IDF) collections paid into a dedicated Fund, established and managed in accordance with the Public Finance Management Act, from 10% to 20%. Of the funds allocated to this Fund, 10% will continue to fund Kenya's contributions to the African Union and other international obligation while 10% will now support revenue enforcement initiatives. This is a positive change as it boosts funding for domestic tax enforcement, which may improve compliance and reduce revenue leakages.

b) Application of the TPA to the MFLA

The Act has amended Section 9B of the MFLA to provide that the provisions of the TPA shall apply to the MFLA for the purposes of applications for refunds, ascertainment and repayment of fees and levies overpaid or paid in error under this MFLA, or the determination by the Commissioner of penalties and interest on fees and levies that remain unpaid.

Previously, only Section 47 of the TPA relating specifically to the offset and refund of overpaid taxes, applied to the MFLA. This amendment is a welcome development as it future proofs the MFLA by incorporating the broader framework of the TPA. It ensures consistency in administration and eliminates the need for future amendments to the MFLA if the relevant provisions of the TPA are revised.

A similar amendment has been made to the marginal notes of Section 9B of the MFLA to provide for a general application of the TPA in respect to refunds applied under the MFL.

c) Changes Relating to Exemptions from the Import Declaration Fee and Railway Development Levy

The Act has amended the Second Schedule to the MFLA to exempt from IDF and RDL, inputs, raw materials, and machinery used in the manufacture of mosquito repellents, upon recommendation by the Cabinet Secretary for Health. This is a welcome change as it supports local manufacturing of health-related products and may contribute to public health efforts, particularly in malaria-prone regions.

In the same breath, the Act has deleted the exemption from IDF previously provided to goods of Chapter 5407 (Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04) and Chapter 6309 (Worn clothing and other worn articles) imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for industry.

d) Introduction of Investment Promotion Levy on Specific Goods Imported into Kenya for Home Use

The Act has introduced imposition of the following items to an export and investment promotion levy on their importation into the country for home use:

Description	Tariff No.	Export Promotion Levy
Ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing; finishing ceramics.	69.07	3%
Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures.	69.10	3%
Iron and non-alloy steel in ingots or other primary forms (excluding iron of heading 72.03).	72.06	17.5%
Semi-finished products of iron or non-alloy steel	72.07	17.5%
Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel;	72.13	17.5%
Other bars and rods of iron or non-alloy steel, not further worked than forged, hot rolled, hot-drawn or hot extruded, but including those twisted after rolling.	72.14	17.5%
Other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel.	72.24	17.5%

6. STAMP DUTY ACT

Effective Date: 1 July 2025

Stamp Duty Exemption on the Transfer of Property by a Company to its Shareholders

The Act has introduced a new provision in the Stamp Duty Act (Chapter 480) exempting the transfer of property by a company to its shareholders as part of an internal reorganisation. The exemption is subject to the conditions that the property is transferred to the shareholders in proportion to their shareholding in the company immediately before the transfer and that where the property consists of shares, such shares should be in a subsidiary of the company undertaking the transfer.

Note however that the exemption is not automatic as an application would be required to be made to the Collector of Stamp Duty demonstrating eligibility for the exemption.

Contact Us

Should you have any questions regarding the information in this legal alert, please do not hesitate to contact:




Daniel Ngumy
Managing Partner

daniel.ngumy@aln.africa

Kenneth Njuguna
Partner

kenneth.njuguna@aln.africa

James Karanja
Associate Director

james.karanja@aln.africa

Dennis Chiruba
Senior Associate

dennis.chiruba@aln.africa

Contributors

1. Priscilla Githinji - Principal Associate
2. Faith Siteiya - Principal Associate
3. Dhruv Shah – Principal Associate
4. Muna Abdullahi – Principal Associate
5. John Kiragu - Associate
6. Bettina Okinyi – Associate
7. Caleb Weisiko – Associate
8. Cindy Mukami – Trainee Lawyer
9. Andrew Simiyu – Trainee Lawyer
10. Maureen Isika - Trainee Lawyer
11. Dedan Muimi – Intern
12. Lectisiah Gachara – Intern
13. Vincent Mbaluka - Intern

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