



Brief on the Finance Bill, 2017

The Finance Bill, 2017 makes proposals to amend the following laws as indicated—

ACT	PROPOSED AMENDMENT
<p>1. Excise Duty Act, 2015</p>	<ul style="list-style-type: none"> (a) Including the use of illuminating kerosene to manufacture non-excisable goods as one of the activities requiring a license from the Commissioner. (b) Allow for a refund where excise duty had been paid in respect of illuminating kerosene which was subsequently used by a licensed or registered manufacturer to manufacture unexcisable goods. (c) Excise duty rate on spirits will change from Kshs. 175 to Kshs. 200 (d) Excise duty on cigarette with filters will be Kshs. 2,500 (e) Excise duty on cigarette without filters will be Kshs. 1,800. (f) Goods imported or purchased locally by St. John Ambulance will be exempt from excise duty <p>These provisions will take effect from 3rd April, 2017</p>
<p>2. Value Added Tax, 2013</p>	<ul style="list-style-type: none"> (a) The supply of liquefied petroleum gas will no longer be a zero rated supply (b) The supply of maize (corn) flour, wheat or meslin flour and ordinary bread will be a zero rated supply (c) Taxable goods supplied to marine fisheries and fish processors upon recommendation by the relevant state department will be zero-rated goods. (d) A returning resident may import under zero-rate, a right hand vehicle if its current retail selling price does not exceed that of the previously owned left hand drive vehicle. (e) Services to donor agencies, international and regional organizations with Diplomatic accreditation will be zero rated (f) Taxable services for official use in the provision of relief service will be zero rated. (g) Taxable equipment and apparatus for direct and exclusive use for construction of specialized hospitals with accommodation facilities will be VAT-exempt <p>This will be with effect from 3rd April, 2017</p>

3. Income Tax Act, Cap 470

(a) Expenditure incurred on donations to the Kenya Red Cross, county governments or other institutions to alleviate the effects of a national disaster will be an allowable deduction.

(b) A resident entity operating in a preferential tax regime should carry out business with a related resident person on an arm's length basis.

This will be with effect from **3rd April, 2017**

(c) Income which is exempt from tax

- i. Dividends paid by SEZ Enterprise, developers or operators to non-residents
- ii. 100% investment deduction allowance for capital expenditure incurred on construction or purchase of machinery by or for an SEZ Enterprise

(d) Personal relief shall be 16,896.

(e) Rates of tax will be revised as follows—

For Individuals

On the first Kshs.147,580-	10%
On the next Kshs.139,043-	15%
On the next Kshs.139,043-	20%
On the next Kshs.139,043-	25%
On all income over Kshs.564,709-	30%

Wife's Employment/self-employment income rates

On the first Kshs.147,580-	10%
On the next Kshs.139,043-	15%
On the next Kshs.139,043-	20%
On the next Kshs.139,043-	25%
On all income over Kshs.564,709-	30%

(f) An SEZ enterprise will be charged 10% for the first ten years from the date of operation and thereafter 15% for another ten years whether or not the enterprise sells its products to markets within or outside Kenya.

(g) Local assemblers of motor vehicles will be charged 15% for the first years from the year of commencement of its operations.

(h) The rate applicable to any payments or royalty payments made by an SEZ enterprise, developer or operator to a non-resident shall be 5% of the gross amount payable. Interest paid by an SEZ enterprise, developer or operator to a non-resident will also be charged at the rate of 5% of the gross amount payable.

(i) Withdrawals in a year from a registered pension fund, provident fund, NSSF or an individual retirement fund before the expiry of fifteen years will be subjected the following new rates and income bans

On the first Kshs.147,580-	10%
On the next Kshs.139,043-	15%
On the next Kshs.139,043-	20%
On the next Kshs.139,043-	25%
On all income over Kshs.564,709-	30%

These will take effect from **1st January, 2018**

ACT	PROPOSED AMENDMENT
<p>4. Tax Procedures Act, 2015</p>	<p>(a) Authorised tax officers will have the power to enter and search premises and seize, collect and detain evidence and produce that evidence in any court proceedings</p> <p>(b) The deadline for tax amnesty on income earned outside Kenya has been extended to 30th June, 2018. There is now an additional condition that the voluntarily declared funds be transferred back to Kenya in order for the taxpayer to take advantage of the amnesty.</p> <p>(c) A supplier may be exempt from withholding tax on demonstrating that due to the nature of business, they will be in a continuous credit position for a period of not less than 24 months</p> <p>(d) Withholding tax ought to be remitted to the Commissioner within 14 days of deduction</p> <p>(e) Failing to withhold the whole amount of tax which should have been withheld and failing to remit the amount withheld within 14 days constitutes an offence.</p> <p>These provisions will take effect from 3rd April, 2017</p>
<p>5. Betting, Lotteries and Gaming Act, Cap 131</p>	<p>(a) Betting tax will be chargeable at the rate of 50% of the gaming revenue</p> <p>(b) Lottery tax will be chargeable at the rate of 50% of the lottery turnover.</p> <p>(c) Gaming tax will be chargeable at the rate of 50% of the gaming revenue</p> <p>(d) Prize competition tax will be chargeable at the rate of 50% of the total gross turnover.</p> <p>These provisions will take effect from 1st January, 2018</p>
<p>6. Stamp Duty Act, Cap 480</p>	<p>(a) Stamp duty shall not be charged twice where a person moves an Islamic finance arrangement from one bank to another.</p> <p>(b) Amendments to reflect Islamic financial return where there is a mention of interest.</p> <p>(c) In a mortgage where the financial institution provides an Islamic finance arrangement, duty will be charged on the transfer of title to the financial institution but not the transfer from the institution to the transferee.</p> <p>(d) Transfer of title relating to a <i>Sukuk</i> arrangement will be exempt from payment of stamp duty.</p> <p>(e) Agreement relating to the sale of a <i>Sukuk</i> will be exempt from stamp duty</p> <p>These provisions will take effect from 1st January, 2018</p>
<p>7. Retirement Benefits Act, 1997</p>	<p>(a) The Retirements Benefits Authority will have an additional function to approve trustees' remuneration approved by members during the annual AGM after every three years.</p> <p>(b) The RBA will have the right to issue guidelines or practice notes to be complied with when appointing a trustee of a scheme fund</p> <p>(c) Failure to submit a statutory return by the due date will attract a penalty of Kshs. 100,000 and if the return remains un-submitted a further fine of Kshs. 1,000 for each day of non-compliance.</p> <p>These provisions will take effect from 1st January, 2018</p>
<p>8. Public Finance Management Act, 2012</p>	<p>(a) The Cabinet Secretary may make regulations for raising money by issuing a <i>Sukuk</i> bond</p>

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	<p>(b) A <i>Sukuk</i> bond may be used to raise money within or outside Kenya in Kshs or any other currency or medium of exchange.</p> <p>These provisions will take effect from 1st July, 2017</p>
<p>9. Tax Appeals Tribunal Act, 2013</p>	<p>The Tax Appeals Tribunal will no longer have the leeway to extend the period for the hearing of an appeal. An appeal must be heard and determined within ninety days from the date the appeal is filed with the Tribunal.</p> <p>This provision will take effect from 1st January, 2018</p>
<p>10. Cooperative Societies Act, Cap 490</p>	<p>A society which has as its objects the promotion of adherence to the principles of Islamic law may be registered as a Co-operative society.</p> <p>This provision will take effect from 1st January, 2018</p>
<p>11. Sacco Societies Act, 2008</p>	<p>(a) Deposit taking business will include a Sacco business which provides funding in compliance with Islamic law</p> <p>(b) The Cabinet Secretary is to make regulations providing for the regulation of co-operative societies carrying out deposit taking business in compliance with Islamic law.</p> <p>These provisions will take effect from 1st July, 2017</p>
<p>12. Public Procurement and Asset Disposal Act, 2015</p>	<p>(a) The Public Procurement Regulatory Board will be made up of two members nominated by ICPAK and KISM, and four other persons appointed by the Cabinet Secretary.</p> <p>(b) The Public Procurement Administrative Review Board will be made up of—</p> <ol style="list-style-type: none"> i. Seven members nominated by the stipulated bodies (2 from LSK, 1 from ChArb, 1 from KISM, 1 from ICPAK, 1 from IEK, 1 from AAK) ii. Seven members appointed by the Cabinet Secretary. <p>(c) A specially permitted procurement procedure will be introduced. The Cabinet Secretary will prescribe the procedure to be followed. This procedure may be used in the following scenarios—</p> <ol style="list-style-type: none"> i. Exceptional requirements make it impossible, impracticable or uneconomical to undertake the prescribed procurement procedure ii. Market conditions or behaviour do not allow effective adherence to the procurement laws iii. Procurement of specialized or particular requirements which are regulated or governed by harmonized international standards or practices. iv. Instances of strategic partnership sourcing. v. Instances of credit financing procurement. vi. Any other circumstances prescribed. <p>These provisions will take effect from 1st July, 2017</p>
<p>13. Miscellaneous Fees and Levies Act, 2016</p>	<p>(a) Goods produced in SEZs will not be subject to export levy</p> <p>(b) Goods destined for approved SEZs will be exempt from import declaration fee when imported or purchased before clearance through customs.</p>