Finance Bill 2017

The Finance Bill, 2017 published on 3rd April, 2017 has amended various tax provisions while at the same time providing clarity on the existing provisions.

The Finance Bill 2017 follows the release of the 2017/2018 Budget Speech, which was announced on 30th March 2017. The Bill incorporates new provisions in the tax law and amendments to the various provisions in the various Acts.

We now provide a summary of the changes in the Finance Bill as tabulated in the following pages:

1. Value Added Tax		
Proposed changes	Comment	Effective date
Zero rating of maize flour and ordinary bread, which are currently VAT exempt.	Manufacturers will now be able to claim full input tax reducing cost of production.	3rd April 2017
Exemption of locally assembled tourist vehicles	The proposed amendment is intended to revive the tourism sector which has in the recent years seen a recession.	3rd April 2017
Extension of VAT exemption to medical equipment and apparatus to specialised hospitals.	The proposed incentive is aimed at encouraging investments in the sector and hopefully translate to quality healthcare for special needs to the ordinary mwananchi.	3rd April 2017
VAT Exemption on inputs used in manufacture of pesticides	This is a big relief to the agricultural sector and especially local manufactures as the cost of pesticides is anticipated to decrease.	3rd April 2017
VAT exemption for Sharia compliant finance products	Finance Bill seeks to harmonize VAT incentives offered across the financial services industry by providing for equivalent VAT treatment of Islamic finance products with conventional financial products. In essence, 'Sukuk' and Islamic finance return which is treated as interest is now exempt from VAT.	3rd April 2017
Zero Rating of packaging materials and other inputs intended to support primary, secondary and ancillary marine fisheries and fish processing.	This tax incentive has been presented to facilitate development of the blue economy.	3rd April 2017
Exemption of the supply of liquefied petroleum and taxable goods for use in the manufacture of liquid petroleum gas cylinders by licensed manufacturers upon recommendation by the Cabinet Secretary responsible for Energy and petroleum	This proposal will promote local manufacturing of LPG gas cylinders, which currently are being majorly imported.	3rd April 2017

2. Customs & Excise Tax

Proposed changes	Comment	Effective date
Refund of excise duty paid on illuminating kerosene used in the manufacturing of paints and resin by registered manufacturers.	The amendment is set to benefit manufacturers of paint and resin who use illuminating kerosene to manufacture paint products. The excise duty had been introduced to curb the adulteration of other fuels using the cheaper kerosene. This inadvertently hurt the paint manufacturers who use this as a raw material for production.	3rd April 2017
Increased tax rates of spirits from Ksh. 175 per litre to Ksh. 200 per litre.	The increase in taxes will enable the government to reap more from the growing sector. However, the measure may drive consumers to shift to the consumption of illicit brews which do meet the required health standards.	3rd April 2017
The rate of excise duty has been amended from the single rate of Ksh. 2,500 per mille to a two-tier tax structure: • Cigarette with filters (Hinge lid and soft cap) – Ksh. 2,500 • Cigarettes without filters (plain cigarette) - Ksh. 1,800	The two tier tax structure provides for less excise duty for cigarettes without filters. The proposal is seen as a move to enhance equity. The move will act as a slight reprieve to the distressed tobacco industry	3rd April 201
Exemption of excisable goods supplied to the St. John Ambulance for official use in the provision of relief supplies in Kenya	The exemption was initially granted to suppliers of the Kenya Red Cross Society. The extension to St. John Ambulance will aid in the increase of relief services in the country.	3rd April 2017
Exemption from excise tax for locally manufactured products purchased for use in manufacturing of sanitary towels	The exemption lays a plain field for fair competition. Firms supplying materials for production of sanitary pads can now compete equally with the imported products.	3rd April 2017

Returning residents will now be allowed to purchase a new right hand vehicle whose current retail-selling price shall not exceed that of the previous owned left hand drive vehicle.	The proposal is meant to curb the challenges experienced by returning individuals on replacing their left hand vehicles with right hand vehicles. And bring clarity on the same.	3rd April 2017
Duty exemption on importation of white maize for the next four months.	The proposal to cushion import duty on imported maize is a big relief to consumers who have been heavily burdened by the increase in cost of living.	3rd April 2017
Duty exemption on importation of dates during the Ramadhan period	Our Muslim brothers and sisters will celebrate their Holy month of Ramadhan with joy as they embrace an import duty break of dates.	During month of Ramadhan

3. Income Tax

Proposed changes	**Comment**	**Effective date**
Expenditure incurred in that year of income on donations to the Kenya Red Cross, County governments or any other institution responsible for the management of national disasters to alleviate the effects of a national disaster declared by the President shall be allowable deductions for tax purposes under section 15 of the ITA.	The proposal is a move by the government to encourage donations that go a long way in handling national disasters and especially during the drought experienced recently.	3rd April 2017
Dividends payable to non-residents by SEZ enterprises will be exempt from withholding tax currently chargeable at 10%.	The additional tax incentive is intended to promote the uptake of investment in this sector particularly by non-resident persons.	1st January 2018

Enterprises licensed under SEZ shall qualify for 100% investment deduction on the capital cost incurred in the construction of buildings and installation of machinery within the first year of utilization.	This proposition will see investors in the SEZ obtain investment deduction at 100% on buildings, which ordinarily would attract industrial building allowance of 10%.	1st January 2018
Increase of resident personal relief to sixteen thousand eight hundred and ninety-six. (Ksh. 16,896)	Personal relief has further been increased by 10% from KSh. 15,360 to KSh. 16,896. The increase came shortly after the Finance Bill 2016 made proposed changes to increase the relief from KSh. 13,944 to Ksh. 15,360.	1st January 2018
The individual rates of tax shall be- *Rate in each shilling* On the first Ksh. 147,580 10% On the next Ksh. 139,043 15% On the next Ksh. 139,043 20% On the next Ksh. 139,043 25% On all income over Ksh. 564,709 30%	The expansion of tax bands will marginally lower the PAYE tax burden and increase the take home income for employees. This may marginally improve their purchasing power.	1st January 2018
Corporate tax rate in the case of a company whose business is local assembling of motor vehicles, has been reduced to a rate of 15% down from the standard rate of 30% for the first five years of operation.	The reduced corporation tax rate of 15% is expected to enhance investor returns and increase job opportunities for Kenyans.	1st January 2018
Reduced Withholding tax rates shall apply on payment to non-residents by the SEZ entities as below; 1. Management Fee - from 20%to 5% 2. Royalties - from 20% to 5% 3. Interest - from 15% to 5%	The primary objective of the proposed tax incentives is to attract foreign direct investment into the SEZs, expand the local economy and increase employment opportunities.	1st January 2018

Increase of investment deduction on the capital expenditure incurred by industries in the Blue Economy sector to 150%.	The proposal is an incentive to boost the blue economy sector which covers marine, fisheries and fish processing,	1st January 2018
In respect of a withdrawal before the expiry of fifteen years from the date of joining the fund, made from a registered pension fund, registered provident fund, the National Social Security Fund or a registered individual retirement fund in excess of the tax free amounts specified under section 8(4) and 8 (5) in any one year, *Rate in each shilling* On the first Ksh. 147,580 10% On the next Ksh. 139,043 15% On the next Ksh. 139,043 20% On the next Ksh. 139,043 25% On all income over Ksh. 564,709 30%	Retirement benefits received as a lump sum shall be taxed as follows. The increased rates are in line with the increased tax bands.	1st January 2018

4. Tax Procedures Act

Proposed changes	Comment	Effective date
Extension to file returns and accounts for the year 2016 by 30th June 2018 in relation to Tax Amnesty.	The taxpayers willing to take advantage of the amnesty now have more time to file their returns for the year 2016.	3rd April 2017

The Finance Bill has introduced the following proposal with regards to the WHVAT • The Commissioner may at any time exempt any supplier of this section If such a supplier has sufficiently demonstrated that due to the nature of his business and due to the application of this section, he is going to be in a credit position for a period of not less than twenty-four (24) months	The Commissioner has given consideration to suppliers who are not able to fully utilize their credit.	3rd April 2017
• The tax withheld shall be remitted to Commissioner within fourteen (14) days after tax was deducted. • A person who is required to withhold the tax commits an offence if he – a) Fails to withhold the whole amount of the tax which should have been withheld or b) Fails to remit the amount of the withheld tax to the Commissioner within fourteen (14) days following the time the withholding was made or ought to have been made.	The WHVAT agents had no deadline as to the payment of WHVAT. The amendment proposes that the tax should be remitted within 14 days. Failure to which, tax payers will be liable to penalties and interest. The change is aimed at improving compliance and enhancing easiness in the collection of taxes.	3rd April 2017
Inclusion of Penalty as part of tax liability	The current law excludes penalties from reference to tax liability. However, the proposal seeks to include penalties as part of tax liability eligible to be recouped by the Kenya Revenue Authority.	3rd April 2017

The proposal allows KRA officers to be able to initiate prosecution and produce seized evidence in Tribunal or a court of Law.	This will help the officers in investigation to conclude the cases at the court of law or tribunal without necessarily having to involve Police officers.	3rd April 2017

5. Miscellaneous Act		
Proposed changes	**Comment**	**Effective date**
Increased taxes on gaming, lottery, betting and firms running competition prizes summarized below. Betting from 7.5% to 50% Lotteries from 5% to 50% Gaming from 12% to 50% Firms running competition prizes from 15% to 50	The proposal to increase taxes in the gaming, lottery betting and firms running competition prizes has been welcomed by hostile criticism. The move will negatively impact the industry as the 50% tax rate is not a final tax.	1st January 2018

Conclusion

The amendments to the various Act are largely welcomed and we hope to see the benefits trickle down to the final consumer.

The increase in tax bands has been received with open arms. This follows an expansion of the bands by a similar margin in the last budget with an effective date of 1 January 2017. This is a welcome move especially given that it had previously taken 12 years since the bands were last expanded. We expect that this trend will continue as we with the annual rate of inflation adjustment.

The gaming, lottery, betting and firms running competition prizes industry have been adversely affected by the Bill. The increase in taxes is a big blow to the industry that has grown tremendously in the recent years. The unintended consequences of the increase may be a drive to the practice of underground industry and lead to illegal gaming. Alternatively, the betting and gaming firms may choose to relocate outside the country denying revenue to the country.

We look forward to seeing that bread manufactures and maize millers pass down the benefit to the common mwananchi in the form of reduced commodity prices.

The Finance Bill has also extended the tax amnesty deadline by which income earned outside Kenya needs to be declared to 30th June 2018. Further, the voluntarily declared funds will need to be repatriated into Kenya in order for a taxpayer to take advantage of the amnesty. This has provided some clarity on the conditions around the tax amnesty and the taxpayer awaits further clarification from the KRA in respect to the guidelines that were recently issued.

Get in touch

- Please get in touch with us to find out more about how this affects you.

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