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**THE VALUE ADDED TAX (AMENDMENT)
BILL, 2016**

A Bill for

**AN ACT of Parliament to amend the Value Added Tax
Act, 2013**

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Value Added Tax Short title.
(Amendment) Act, 2016.

2. The Value Added Tax Act, 2013 is amended in Part Amendment of the
First Schedule to
No. 35 of 2013.
II of the First Schedule, by inserting the following new
item immediately after item 18—

“19. Transportation of sugarcane from farms to
milling factories”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Value Added Tax Act, 2013 (No. 35 of 2013) to exempt sugarcane farmers from paying value added tax (VAT) on transportation of sugarcane from the farms to the milling factories.

The Value Added Tax, 2013 provides for the levying of value added tax on sugarcane transportation, and transporters are required to collect and remit the tax to the Kenya Revenue Authority. This has led to an increase in the cost of production of sugar.

This Bill is therefore intended to amend the Value Added Tax Act to exempt levying of VAT on sugarcane transportation and thereby bring the cost of production of sugar down.

This Bill does not concern county governments and neither does it affect the powers and functions of county governments.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 17th March, 2016.

WAFULA WAMUNYINYI,
Member of Parliament.

The First Schedule which it is proposed to amend—

FIRST SCHEDULE

[s. 2(1).]

EXEMPT SUPPLIES

PART I – GOODS

Section A

The supply or importation of the following goods shall be exempt supplies.

1. Bovine semen of tariff no. 0511.10.00.
2. Fish eggs and roes of tariff no. 0511.91.10.
3. Animal semen other than bovine of tariff no. 0511.99.10.
4. Soya beans, whether or not broken of tariff nos. 1201.10.00 and 1201.90.00.
5. Groundnuts, not roasted or otherwise cooked, in shell of tariff no. 1202.41.00.
6. Groundnuts, not roasted or otherwise cooked, shelled, whether or not broken of tariff no. 1202.42.00.
7. Copra of tariff no. 1203.00.00.
8. Linseed, whether or not broken of tariff no. 1204.00.00.
9. Low erucic acid rape or colza seeds of tariff no. 1205.10.00.
10. Other rape or colza seeds of tariff no. 1205.90.00.
11. Sunflower seeds, whether or not broken of tariff no. 1206.00.00.
12. Cotton seeds, whether or not broken of tariff nos. 1207.21.00 and 1207.29.00.
13. Sesamum seeds, whether or not broken of tariff no. 1207.40.00.
14. Mustard seeds, whether or not broken of tariff no. 1207.50.00.
15. Safflower seeds, whether or not broken of tariff no. 1207.60.00.
16. Other oil seeds and oleaginous fruits, whether or not broken of tariff no. 1207.99.00.
17. Pyrethrum flower of tariff no. 1211.90.20.
18. Live Animals of Chapter 1.

19. Meat and edible meat offals of chapter 2 excluding those of tariff heading 0209 and 0210.

20. Fish and crustaceans, molluscs and other aquatic invertebrates of Chapter 3 excluding those of tariff heading 0305, 0306 and 0307.

21. Unprocessed milk.

22. Fresh birds eggs in shell.

23. Edible Vegetables and certain roots and tubers of Chapter 7, excluding those of tariff heading 0711.

24. Edible fruits and nuts, peel of citrus fruits or melon of Chapter 8 excluding, those of tariff heading 0811, 0812, 0813 and 0814.

25. Cereals of Chapter 10, excluding seeds of tariff heading 1001, 1002 and 1003.

26. Fertilisers of Chapter 31.

27. Plants and machinery of Chapter 84 and 85.

28. Maize (corn) seed of tariff no. 1005.10.00.

29. Taxable supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in the construction of a power generating plant, by a company, to supply electricity to the national grid approved by Cabinet Secretary for National Treasury upon recommendation by the Cabinet Secretary responsible for energy.

30. Tax supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration, by a company granted prospecting or exploration license in accordance with Geothermal Resources Act (Cap. 314A), production sharing contracts in accordance with the provisions of Petroleum (Exploration and Production) Act (Cap. 308) or mining license in accordance with the Mining Act (Cap. 306), upon recommendation by the Cabinet Secretary responsible for energy or the Cabinet Secretary responsible for mining, as the case may be.

31. Agricultural pest control products.

32. Syringes, with or without needles of tariff no. 9018.31.00

33. Disposable plastic syringes of tariff no. 9018.31.10

34. Other syringes with or without needles of tariff no. 9018.31.90.

35. Tubular metal needles and needles for sutures of tariff no. 9018.32.00

36. Catheters, cannulae and the like of tariff no. 9018.39.00

37. Blood bags

38. Blood and fluid infusion sets

(1) Subject to paragraphs (2) and (3), materials, articles and equipment, including motor vehicles, which—

(a) are specially designed for the sole use by disabled, blind and physically handicapped persons;

(b) are intended for the educational, scientific or cultural advancement of the blind for the use of an organisation approved by the national Government for purposes of exemption.

(2) The exemption under paragraph (1) shall only apply—

(a) once in every four years in respect of motor vehicles; and

(b) to a person who has not enjoyed another exemption under the provisions of this Act.

(3) Paragraph (1) (b) does not apply to motor vehicles.

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| 2941.20.00 | Streptomycins and their derivatives; salts thereof. |
| 2941.30.00 | Tetracyclines and their derivatives; salts thereof. |
| 2941.40.00 | Chloramphenicol and its derivatives; salts thereof. |
| 2941.50.00 | Erythromycin and its derivatives; salts thereof. |
| 2941.90.00 | Other antibiotics. |
| 3001.20.00 | Extracts of glands or other organs or of their secretions. |
| 3001.90.10 | Heparin and its salts. |
| 3001.90.90 | Other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included. |
| 3002.10.00 | Antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes. |

- 3002.20.00 Vaccines for human medicine.
- 3002.30.00 Vaccines for veterinary medicine.
- 3003.20.00 Medicaments containing other antibiotics not put up in measured doses or in forms or packings for retail sale.
- 3003.31.00 Medicaments containing insulin, not put up in measured doses or in forms or packings for retail sale.
- 3003.39.00 Other medicaments, containing hormones or other products of heading No. 29.37 but not containing antibiotics, not put up in measured doses or in forms or packings for retail sale.
- 3003.40.00 Medicaments containing alkaloids or derivatives thereof but not containing hormones or other products of heading No. 29.37 or antibiotics, not put up in measured doses or in forms or packings for retail sale.
- 3003.90.10 Infusion solutions for ingestion other than by mouth not put up in measured doses or in forms or packings for retail sale.
- 3003.90.90 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale.
- 3004.10.00 Medicaments containing penicillins or derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives, put up in measured doses or in forms or packings for retail sale.
- 3004.20.00 Medicaments containing other antibiotics, put up in measured doses or in forms or packings for retail sale.
- 3004.31.00 Medicaments containing insulin put up in measured doses or in forms or packings for retail sale.

- 3004.32.00** Medicaments containing adrenal cortical hormones, put up in measured doses or in forms or packings for retail sale.
- 3004.39.00** Other medicaments containing hormones or other products of heading No. 29.37 but not containing antibiotics, put up in measured doses or in forms or packings for retail sale.
- 3004.40.00** Medicaments containing alkaloids or derivatives thereof but not containing hormones, or other products of heading No. 29.37 or antibiotics, put up in measured doses or in forms or packings for retail sale.
- 3004.50.00** Other medicaments containing vitamins or other products of heading No. 29.36 put up in measured doses or in forms or packings for retail sale.
- 3004.90.00** Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products ,for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.
- 3004.90.10** Infusion solutions for ingestion other than by mouth put up in measured doses or in forms or packings for retail sale.
- 3004.90.90** Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.
- 3005.10.00** Adhesive dressings and other articles having an adhesive layer impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.
- 3005.90.10** White absorbent cotton wadding, impregnated or coated with pharmaceutical substances, or put up in forms or packings

- for retail sale for medical, surgical, dental or veterinary purposes.
- 3005.90.90 Other wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.
- 3006.10.00 Sterile surgical catgut, similar sterile suture materials and sterile tissue adhesives for surgical wound closure, sterile laminaria and sterile laminaria tents; sterile absorbable surgical or dental haemostatics.
- 3006.20.00. Blood-grouping reagents.
- 3006.30.00 Opacifying preparations for X-ray examinations; diagnostic reagents designed to be administered to the patient.
- 3006.40.00 Dental cements and other dental fillings; bone reconstruction cements.
- 3006.50.00 First-aid boxes and kits.
- 3006.60.00 Chemical contraceptive preparations based on hormones or spermicides.
- 3006.70.00 Gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments.
- 3006.91.00 Appliances identifiable for ostomy use.
- 3006.92.00 Waste pharmaceuticals.
- 8309.90.90 Alluminium pilfer proof caps with EPE liner.
- 8802.11.00 Helicopters of an unladen weight not exceeding 2,000 kg.
- 8802.12.00 Helicopters of an unladen weight exceeding 2,000 kg.

- 8802.20.00 Aeroplanes and other aircraft, of an unladen weight exceeding 2,000 kg.
 - 8802.60.00 Spacecraft (including satellites) and suborbital and spacecraft launch vehicles.
 - 8805.21.00 Air combat simulators and parts thereof.
 - 8805.10.00 Aircraft launching gear and parts thereof; deck-arrestor or similar gear and parts thereof.
 - 8805.29.00 Other ground flying trainers and parts thereof.
 - 9619.00.10 Sanitary towels (pads) and tampons.
 - 1101.00.00 Wheat or meslin flour.
 - 0402.99.10 Milk, specially prepared for infants.
 - 0402.91.10 Milk, specially prepared for infants.
 - 0402.29.10 Milk, specially prepared for infants.
 - 0402.21.10 Milk, specially prepared for infants.
 - 2106.90.20 Food preparations specially prepared for infants.
 - 1102.20.00 Maize (corn) flour.
 - 1006.30.00 Semi-milled or wholly milled rice, whether or not polished or glazed.
- Ordinary bread.
Gluten bread.
Unleavened bread.

SECTION B—EXEMPT GOODS ON TRANSITION

The following goods shall be exempt supplies for a period of three years from the commencement of this Act unless the exempt status of the supplies is earlier revoked—

2709.00.00	Petroleum oils and oils obtained from bituminous minerals, crude.
2710.12.10	Motor spirit (gasoline) regular
2710.12.20	Motor spirit (gasoline), premium.
2710.12.30	Aviation spirit
2710.12.40	Spirit type jet fuel.
2710.12.50	Special boiling point spirit and white spirit.
2710.12.90	Other light oils and preparations.
2710.19.10	Partly refined (including topped crudes).
2710.19.21	Kerosene type jet fuel.
2710.19.22	Illuminating kerosene (IK)
2710.19.29	Other medium petroleum oils and preparations.
2710.19.31	Gas oil (automotive, light, amber, for high speed engines).
2710.19.39	Other gas oils.
2711.21.00	Natural gas in gaseous state
2711.29.00	Other natural gas in gaseous state.

PART II—SERVICES

The supply of the following services shall be exempt supplies—

1. The following financial services-

- (a) the operation of current, deposit or savings accounts, including the provision of account statements;
- (b) the issue, transfer, receipt or any other dealing with money, including money transfer services, and accepting over the counter payments of household bills, but excluding the services of carriage of cash, restocking of cash machines, sorting or counting of money;
- (c) issuing of credit and debit cards;

- (d) automated teller machine transactions, excluding the supply of automated teller machines and the software to run it;
- (e) telegraphic money transfer services.
- (f) foreign exchange transactions, including the supply of foreign drafts and international money orders;
- (g) cheque handling, processing, clearing and settlement, including special clearance or cancellation of cheques;
- (h) the making of any advances or the granting of any credit;
- (i) issuance of securities for money, including bills of exchange, promissory notes, money and postal orders;
- (j) the provision of guarantees, letters of credit and acceptance and other forms of documentary credit;
- (k) the issue, transfer, receipt or any other dealing with bonds, debentures, treasury bills, shares and stocks and other forms of security or secondary security;
- (l) the assignment of a debt for consideration;
- (m) The provision of the above financial services on behalf of another on a commission basis.

2. Insurance and reinsurance services excluding the following-

- (a) management and related insurance consultancy services;
- (b) actuarial services; and
- (c) services of insurance assessors and loss adjusters;

3. The supply of education services

For the purposes of this paragraph, education services means education provided by-

- (a) a pre-primary , primary, or secondary school;
- (b) a technical college or university ;
- (c) an institution established for the promotion of adult education, vocational training or, technical education but shall not apply in respect of business or user training and other consultancy services designed to improve work practices and efficiency of an organization.

4. Medical, veterinary, dental and nursing services.

5. Agricultural, animal husbandry and horticultural services.

6. Burial and cremation services.

7. Transportation of passengers by any means of conveyance excluding international air transport or where the means of conveyance is hired or chartered.

8. Supply by way of sale, renting, leasing, hiring, letting of land or residential premises;

“residential premises” means land or a building occupied or capable of being occupied as a residence, but not including hotel or holiday accommodation.

Provided that this paragraph shall not apply where such services are supplied in respect of—

(a) car park services; or

(b) conference or exhibition services, except where such services are provided for educational institutions as part of learning;

9. Community, social and welfare services provided by National Government, County Government or any political sub-division thereof.

10. Insurance agency, insurance brokerage, stock exchange brokerage and tea and coffee brokerage services.

11. The supply of—

(a) services rendered by educational, political, religious, welfare and other philanthropic associations to their members, or

(b) social welfare services provided by charitable organizations registered as such, or which are exempted from registration, by the Registrar of Societies under section 10 of the Societies Act

(Cap. 108), or by the Non- Governmental Organizations Co-ordination

Board under section 10 of the Non Governmental Organization Coordination

Act, (Cap. 134) and whose income is exempt from tax under paragraph 10 of the First Schedule to the Income Tax Act, (Cap. 470), and approved by the Commissioner of Social Services.

Provided that this paragraph shall not apply where any such services are rendered by way of business.

12. The following entertainment services —

- (a) stage plays and performances which are conducted by educational institutions, approved by the Cabinet Secretary for the time being responsible for education as part of learning;
- (b) sports, games or cultural performances conducted under the auspices of the Ministry for the time being responsible for culture and social services;

13. Accommodation and restaurant services provided within the following premises by the proprietors thereof: -

- (a) establishments operated by an educational training institutions approved by the Cabinet Secretary for the time being responsible for education for the use of the staff and students by that institution; or
- (b) establishments operated by a medical institution approved by the Cabinet Secretary for the time being responsible for health for the use by the staff and patients of such institutions; or
- (c) canteens and cafeterias operated by an employer for the benefit of his employees.

14. Conference services conducted for educational institutions as part of learning where such institutions are approved by the Ministry for the time being responsible for Education.

15. Car park services provided by National Government, County Government, any political sub-division thereof by an employer to his employees on the premises of the employer.

16. The supply of airtime by any person other than by a provider of cellular mobile telephone services or wireless telephone services.

17. Betting, gaming and lotteries services.

18. Hiring, leasing and chartering of aircrafts