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Global Tax Alert

Kenya proposes Tax Laws Amendments Bill, 2020

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Executive summary

Kenya's Tax Laws Amendments Bill, 2020 (the Bill) proposes to make various changes to the prevailing tax laws in Kenya. The key tax laws that the Bill seeks to amend include: *The Income Tax Act, Value-Added Tax (VAT), Excise Duty Act, Tax Procedures Act and Miscellaneous Fees and Levies Act* and the *Kenya Revenue Authority Act*.

The tax amendments proposed in the Bill are aimed at assisting taxpayers as well as the economy against the economic ramifications of the COVID-19 pandemic. This follows Presidential pronouncements issued on 25 March 2020.[1] It is important to note that:

- One of the key pronouncements on the reduced corporate income tax rate was excluded in the Bill. It is possible that this was an oversight.
- The reduced rate of VAT is already in effect with a legal notice issued by Government.

This Alert summarizes the main proposals included in the Bill. The proposals contained in the Bill will only take effect after going through the legislative process, with the final stage being the Presidential assent.

Building a better working world

Detailed discussion

Corporate income tax

Expansion of the definition of qualifying interest

Qualifying interest refers to interest received by a resident individual from commercial banks or a financial institution licensed under the *Banking Act*, the Central Bank of Kenya (CBK) and a registered Building society. Withholding tax on qualifying interest is final. The Bill proposes to include all interest received by a resident individual under the definition of qualifying interest. This is a positive development as it will encourage investment in a number of interest-bearing portfolios.

Withholding tax

The Bill has proposed the imposition of withholding tax on payments made to a nonresident person on account of:

- Sales, promotion, advertising and marketing services
- Transportation of goods excluding air and shipping transportation services
- Reinsurance premiums except for reinsurance premiums in respect of aircraft

The withholding tax rate applicable for sales, promotion, advertising and transportation services is 20% on the gross fees while reinsurance premiums are to be taxed at 5%.

In addition, the Bill proposes an increased withholding tax rate for dividends paid to a nonresident from 10% to 15%.

The aim of the aforementioned proposals is to widen the tax net by taxing income that was previously untaxed. While the measures may raise revenue for the Government in the short term, in the long run the measures could dissuade nonresident investors thereby resulting in reduced revenue for the Government.

Repeal of reduced corporate income tax rates

The Bill proposes repeal of reduced corporate income tax rates in relation to:

- Companies whose shares are listed on the Nairobi Stock Exchange (NSE) currently subject to rates between 20% and 27%
- Companies contemplating a fresh listing on the NSE whose prescribed rate is 25%
- Companies operating a plastics recycling plant currently subject to a rate of 15%, which was introduced in 2019

The proposals to repeal the reduced tax rates may be an avenue for the Government to collect more revenue but the measures present a higher tax burden for taxpayers already facing harsh economic times. On the upside, rates applicable to companies in a special operating framework arrangement agreed between a company and the Government remain in force.

Deductibility of expenses

The Bill proposes elimination of specific deductible capital expenditures as outlined below:

- Legal and incidental expenses incurred on authorization and issue of shares, debentures or similar securities for offer to the general public
- Legal and incidental expenses incurred for listing on any securities exchange operating in Kenya, without raising additional capital
- Expenditure incurred for purposes of listing on any securities exchange operating in Kenya
- Expenditure on the construction of a public school, hospital, road or a similar kind of social infrastructure with the prior approval of the Minister

In addition to the above capital expenditures, the Bill also proposes to exclude entrance fees or annual subscriptions paid to trade associations and club subscriptions paid by an employer on behalf of an employee as deductible expenses.

The objective behind the Government's proposal to tax expenses which were previously deductible against the background of the economic turmoil facing taxpayers due to the COVID-19 pandemic is not clear.

Exempt income

In a bid to increase its revenue collection, the Government has reduced the number of exempt persons and incomes as follows:

Proposed deletion from exemption list	Impact
Capital gains on the transfer of: ▸ Private residence occupied continuously by owner for a period of three years ▸ Land of less than KES3 million ▸ Agricultural land of less than 50 acres situated in an urban area	The proposal will provide additional revenue for the Government if it is implemented. However, it may discourage people from investing through land.
Income of the National Social Security Fund (NSSF)	The NSSF is a crucial body that was established to promote savings for retirement hence taxing the income of the NSSF could have detrimental effects on retirement savings.
Investment income received by a pooled fund or a kind of investment consisting of retirement schemes	This proposal may discourage investment by retirement schemes which in turn could reduce the cashflow available to retirees.
Monthly or lumpsum granted to a person who is sixty-five years and above	This proposal will reduce the disposal income for retirees and it is not a positive proposal at a time when most people are experiencing cash shortages.
Dividends paid to a nonresident by a Special Economic Zone (SEZ) enterprise, developer or operator	This proposal will dissuade investments through the SEZs. The Government should reconsider this proposal as the SEZs were introduced with the aim of spurring investments into the country.
Interest earned from infrastructure bonds, green bonds and asset backed securities	This proposal will discourage investment through these securities if it affected.

Capital allowances/tax depreciation

The Bill has proposed abolishing the Second Schedule of the *Income Tax Act* (ITA) and replacing it with a new schedule. Under the new schedule:

- Capital allowances will be claimed over a longer period.
- The attractive investment deduction claim of 150% of capital investment will be abolished.

The table below outlines the key highlights:

Nature of asset	Current rate (%)	Proposed rate (%)	Additional comment
Hotel building	100	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years ▸ Hotel building is required to be licensed by the competent authority. The Bill has not however defined who is the competent authority
Building used for manufacture	100	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years ▸ Building used for manufacture includes any structure or civil works deemed to be part of a building where the structure or civil works relates or contributes to the use of the building

Nature of asset	Current rate (%)	Proposed rate (%)	Additional comment
Hospital buildings	Not provided for	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years ▸ Hospital building is required to be licensed by the competent authority
Petroleum or gas storage facilities	100	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years
Educational buildings including student hostels	50	10	▸ Claimable on reducing balance ▸ Educational building is required to be licensed by the competent authority
Commercial building	25	10	▸ Claimable on reducing balance ▸ Commercial building includes: – A building used as an office, shop, showroom, godown (warehouse), storehouse, or warehouse used for storage of raw materials for manufacture of finished or semi-finished goods – Civil works relating to water or electric power undertaking, but does not include an undertaking not carried on by way of trade
Machinery used for manufacture	100	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years. ▸ This also includes machinery used for: – Generation, transformation and distribution of electricity – Clean-up and disposal of effluents and other waste products – Reduction of environmental damage – Water supply or disposal – Maintenance of the machinery – Scientific research and development *Manufacture* means the making, including packaging, of goods from raw or semi-finished goods, or the generation of electrical energy for supply to the national grid, or the transformation and distribution of electricity through the national grid, but does not include design, storage, transport, administration or any other ancillary activity
Hospital equipment	12.5	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years
Ships or aircrafts	100/ 25	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years

Nature of asset	Current rate (%)	Proposed rate (%)	Additional comment
Motor vehicles and heavy earth moving equipment	37.5/ 25	25	▸ Claimable on reducing balance ▸ Claimable value restricted to KES3 million except for commercial vehicles which have no restriction
Computer and peripheral computer hardware and software, calculators, copiers and duplicating machines	30/20	25	▸ Claimable on reducing balance
Furniture and fittings	12.5	10	▸ Claimable on reducing balance
Telecommunications Equipment	20	10	▸ Claimable on reducing balance
Filming equipment by a local film producer licensed by the Cabinet Secretary responsible for filming	100	25	▸ Claimable on reducing balance
Machinery used to undertake operations under a prospecting right	100	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years ▸ The proposed allowance of 50% needs to be aligned with the 100% currently provided for in the Ninth Schedule to avoid conflict
Machinery used to undertake exploration operations under a mining right	100	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years ▸ The proposed allowance of 50% needs to be aligned with the 100% currently provided for in the Ninth Schedule to avoid conflict
Other machinery	12.5	10	▸ Claimable on reducing balance
Purchase or an acquisition of an indefeasible right to use fiber optic cable by a telecommunication operator	5	10	▸ Claimable on reducing balance
Farmworks	100	50	▸ Residual value to be claimed at 25% on reducing balance in the subsequent years ▸ The Bill has however not defined farmworks and this could provide an avenue for the misinterpretation of the term by both taxpayers and Kenya Revenue Authority (KRA).

Employment tax

Individual tax rates

The individual tax rates bands have been expanded with the minimum monthly taxable income rising to KES24,000 as follows:

Current income band (annual)	Proposed income band (annual)	Applicable tax rate (%)
On the first 147,580	On the first 288,000	10
On the next 139,043	On the next 200,000	15
On the next 139,043	On the next 200,000	20
On the next 139, 403	Income above 688,000	25
Income over 564,709		30

The Bill has also increased the individual annual tax relief from KES16,896 to KES28,800.

The widened tax bands and increased relief are welcome proposals for employed taxpayers as it will translate to a higher disposable income in the wake of the COVID-19 pandemic that has resulted in cash constraints for most people.

Home ownership savings plan

The Bill has proposed to delete the provisions relating to the taxation of funds deposited with a registered Home Ownership Savings Plan (HOSP). The deletion of the HOSP provisions will result in:

- Taxation of all funds deposited with a registered HOSP. Currently, depositors are allowed to take as an annual deduction an amount of KES96,000 deposited with a registered HOSP.
- Taxation of all the interest received from a registered HOSP. At the moment, interest of up to a maximum of KES3 million received from a registered HOSP is tax exempt.
- Taxation of the income received by a registered HOSP. The income of a registered HOSP is currently exempt.

The proposed deletions are counter-intuitive in cushioning taxpayers against the financial hardships being experienced due to the COVID-19 pandemic. Consequently, the Government should consider retaining the provisions relating to registered HOSPs in the *Income Tax Act* so as to avoid increasing the tax burdens for already cash strained taxpayers.

Pension withdrawal tax rates

The Bill has proposed the reduction of the highest tax rate on qualifying pension withdrawals from retirement funds to 25%, for amounts exceeding KES1,200,000 per annum. In addition, the Bill proposes to expand the tax bands on income withdrawals from retirement funds before the expiration of 15 years by reducing the tax rate from 30% to 25 % for withdrawals exceeding KES688,000.

The above proposals will go a long way in increasing the disposable income available to retirees and a welcome measure in combating the financial hardships occasioned by the COVID-19 pandemic.

Turnover tax

The Bill proposes a number of changes to turnover tax as indicated below:

- The annual turnover liable to turnover tax has been increased from KES5 million to KES50 million
- Turnover tax will also apply to incorporated companies. Previously turnover tax was only payable by unincorporated persons
- The turnover tax rate has been reduced from 3% to 1%
- Persons paying turnover tax will not be required to pay the 15% presumptive tax
- The penalty for late submission of a turnover tax return has been reduced from KES5,000 to KES1,000.

The above outlined proposals will help in managing the cashflow issues being experienced by taxpayers in view of the COVID-19 pandemic. Particularly, the proposal to have incorporated entities paying turnover tax is a positive development bearing in mind that the proposed turnover tax rate is 1%.

Other amendments

Appointment of enforcement agencies

The Bill proposes to amend the *Tax Procedures Act, 2015* (TPA) to empower the Commissioner to appoint a person registered under the *Banking Act* to act as an agent for revenue banking services through an agreement. Such a person will be required to submit the funds collected to the designated CBK account within two days. Failure to submit the funds collected within the stipulated two days will result in a penalty of 2% of the amount collected compounded daily for the period the funds are not submitted to the Central Bank. The proposal is meant to enhance the collection of revenue for the Government.

Private rulings

The Bill has proposed to delete the provision in the TPA requiring the Commissioner to issue a private ruling within 45 days of receiving such an application. In addition, the Bill has proposed to repeal the provisions requiring the Commissioner to publish a private ruling in at least two daily newspapers. The provision allowing any person to rely on a published private ruling has also been proposed to be deleted.

The proposals give the indication that the Commissioner does not want to restrict his timeline and extent of his responsibilities. The provisions may not be received positively by taxpayers because they give the Commissioner the discretion to issue a ruling on his own time schedule. The proposals should be reviewed to include an appropriate time within which the Commissioner should respond to applications for a private ruling.

Value-Added Tax (VAT)

Amendment of definition of value of supply of selected petroleum products

The Bill proposes to amend the definition of the value of supply of petroleum products to include excise duty, fees and other charges. The change will increase the taxable value of the products and hence the VAT amount.

The proposed change will result in a price increment of petroleum products and similar price increases on downstream products and services. This proposal is counterproductive to the main objective of the Bill to cushion Kenyans against the economic effects of the COVID-19 pandemic.

Additional criteria for issuance of a credit note

The Bill proposes to allow businesses to issue credit notes where there is a commercial dispute in court with regard to the price payable, within 30 days after the determination of the matter.

Currently, the *VAT Act* only allows businesses to issue credit notes within six months of the invoice date. This provision aims to provide relief to businesses in cases where the court resolution of disputes ordinarily takes longer than the prescribed period.

Definition of ordinary bread

The Bill proposes to amend the definition of ordinary bread to mean bread containing only the following ingredients; wheat flour, sugar, salt, yeast, fat or oil, bread improver, preservatives and water.

Currently, ordinary, unleavened and gluten bread are exempt from VAT. This clarification in the definition of ordinary bread means that any other kind of bread (save for unleavened and gluten bread) made with ingredients beyond what is listed in the definition of ordinary bread will be taxed at the standard rate of 14%.

Reduction in period within which to apply for VAT refunds arising from bad debts

The Bill proposes to reduce the period within which businesses can apply for VAT refunds arising from bad debts from five years to four years if the debt remains unpaid for a period of three years from the date the supply was made. The proposed change will require businesses to be prompt in seeking refunds, relating to bad debts, from the KRA as the window for claim has been reduced by one year.

Change to require all taxpayers to maintain records of their transactions

Currently only VAT-registered persons are required to maintain records. However, with the proposed amendment, all persons doing business in Kenya will be required to maintain records of their business transactions for a period of five years and be ready to avail such records to authorized officials at all reasonable times for inspections.

Amendment of status of various VAT supplies

The Bill proposes to amend the VAT status of the following products from zero rate to exempt:

Description	Current rate	Proposed rate
Milk and cream, not concentrated nor containing added sugar or other sweetening matter	0%	Exempt
Vaccines for human and veterinary medicine	0%	Exempt
Medicaments	0%	Exempt

The Bill proposes to amend the VAT status of the following products from zero rated to standard rated:

Description	Current rate	Proposed rate
All inputs and raw materials whether produced locally or imported, supplied to manufacturers of agricultural pest control products upon recommendation by the Cabinet Secretary for the time being responsible for agriculture.	0%	14%
Inputs or raw materials for electric accumulators and separators including lead battery separator rolls (whether or not rectangular or square) supplied to manufacturers of automotive and solar batteries in Kenya.	0%	14%
Agricultural pest control products.	0%	14%
The supply of liquefied petroleum gas including propane.	0%	14%

The Bill proposes to amend the VAT status of the following products from exempt to standard rated:

Description	Proposed rate	Current rate
Plants and machinery of Chapter 84 and 85 used for the manufacture of goods	14%	Exempt
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	14%	Exempt
Taxable 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*, 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	14%	Exempt
Fertilizers of Chapter 31	14%	Exempt
Taxable supplies, procured locally or imported for the construction of liquefied petroleum gas storage facilities with a minimum capital investment of four billion shillings and a minimum storage capacity of 15,000 metric tons as approved by the Cabinet Secretary for National Treasury upon recommendation by the Cabinet Secretary responsible for liquefied petroleum gas	14%	Exempt
Helicopters	14%	Exempt

Description	Proposed rate	Current rate
8802.20.00 airplanes and other aircraft, of unladen weight not exceeding 2,000 kg	14%	Exempt
8803.30.00 Other parts of airplanes and helicopters	14%	Exempt
8805.21.00 Air combat simulators and parts thereof	14%	Exempt
8805.10.00 Aircraft launching gear and parts thereof; deck-arrestor or similar gear and parts thereof	14%	Exempt
8805.29.00 Other ground flying trainers and parts thereof	14%	Exempt
Made-up fishing nets of man-made textile material of tariff No. 5608.11.00	14%	Exempt
Mosquito nets	14%	Exempt
Materials, waste, residues and by-products, whether or not in the form of pellets, and preparations of a kind used in animal feeding	14%	Exempt
Specialized equipment for the development and generation of solar and wind energy, including deep cycle batteries which use or store solar power upon the recommendation of the Cabinet Secretary responsible for matters relating to energy	14%	Exempt
Tractors other than road tractors for semitrailers	14%	Exempt
Inputs or raw materials supplied to solar equipment manufacturers for manufacture of solar equipment or deep cycle-sealed batteries which exclusively use or store solar power as approved from time to time by the Cabinet Secretary for the National Treasury, upon recommendation by the Cabinet Secretary responsible for energy and petroleum	14%	Exempt
Aircraft tires	14%	Exempt
Plastic bag biogas digesters	14%	Exempt
Biogas	14%	Exempt
Leasing of biogas producing equipment	14%	Exempt
Parts imported or purchased locally for the assembly of computer, subject to approval by the Cabinet Secretary for the National Treasury, on recommendation by the Cabinet Secretary responsible for matters relating to information technology	14%	Exempt
Taxable goods purchased or imported for direct and exclusive use in the construction and infrastructural works in industrial parks of one hundred acres or more including those outside special economic zones approved by the Cabinet Secretary for the National Treasury	14%	Exempt
Inputs or raw materials locally purchased or imported by manufacturers of agricultural machinery and implements upon approval by the Cabinet Secretary responsible for industrialization	14%	Exempt
Museum and natural history exhibits and specimens and scientific equipment for public museums	14%	Exempt
Chemicals, reagents, films, film strips and visual aid equipment imported or purchased prior to clearance through the customs by the National Museums of Kenya	14%	Exempt

Description	Proposed rate	Current rate
Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks	14%	Exempt
Taxable goods locally purchased or imported by manufacturers or importers of clean cooking stoves for direct and exclusive use in the assembly, manufacture or repair of clean cook stoves approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to energy	14%	Exempt
Inputs or raw materials locally purchased or imported by manufacturers of clean cook stoves approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary for the time being responsible for energy	14%	Exempt
Stoves, ranges, grates, cookers (including those with subsidiary boilers for central heating) barbeques, braziers, gas-rings, plate warmers and similar nonelectric domestic appliances, and parts thereof, or iron or steel of tariff numbers 7321.11.00, 7321.12.00, 7321.19.00, 7321.81.00, 7321.82.00, 7321.83.00 and 7321.90.00	14%	Exempt
Goods falling under tariff number 4907.00.90	14%	Exempt
Inputs for the manufacture of pesticides upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to agriculture	14%	Exempt
The transfer of a business as a going concern by a registered person to another registered person	14%	Exempt
Taxable goods supplied to marine fisheries and fish processors upon recommendation by the relevant state department	14%	Exempt
Goods imported or purchased locally for direct and exclusive use in the implementation of projects under special operating framework arrangements with the Government	14%	Exempt
One personal motor vehicle, excluding buses and minibuses of seating capacity of more than eight seats, imported by a public officer returning from a posting in a Kenyan mission abroad and another motor vehicle by his spouse and which is not exempted from VAT	14%	Exempt
Plant, machinery and equipment used in the construction of a plastics recycling plant	14%	Exempt
Insurance agency, insurance brokerage, securities brokerage services	14%	Exempt
Hiring, leasing and chartering of helicopters of tariff numbers 8802.11.00 and 8802.12.00	14%	Exempt
Taxable services provided for direct and exclusive use in the construction and infrastructural works in industrial parks of one hundred acres or more including those outside special economic zones approved by the Cabinet Secretary for the National Treasury	14%	Exempt
Entry fees into the national parks and national reserves	14%	Exempt
The services of tour operators, excluding in-house supplies	14%	Exempt

Description	Proposed rate	Current rate
Taxable services for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon the recommendation by the Cabinet Secretary responsible for recreational parks	14%	Exempt
Taxable services, procured locally or imported for the construction of liquefied petroleum gas storage facilities with a minimum capital investment of four billion shillings and a minimum storage capacity of fifteen thousand metric ton as approved by Cabinet Secretary for National Treasury upon recommendation by the Cabinet Secretary responsible for liquefied petroleum gas	14%	Exempt
Asset transfers and other transactions related to the transfer of assets into real estate investment trusts and asset-backed securities	14%	Exempt
Services imported or purchased locally for direct and exclusive use in the implementation of projects under special operating framework arrangements with the Government	14%	Exempt

Excise Duty Act

Amendment of status of excise duty

The Bill proposes to introduce excise duty on the following products;

Description	Current rate	Proposed rate
Locally manufactured sugar confectionary of tariff heading 17.04	Not provided for	KES20 per Kg
Locally manufactured white chocolates in blocs, slabs, or bars of tariff numbers 1806.31.00, 1806.32.00, 1806.90.00	Not provided for	KES200 per Kg

The Bill proposes to amend the VAT status of the following products from exempt to standard rated:

Description	Current rate	Proposed rate
Goods imported or purchased locally for direct and exclusive use in the implementation of projects under special operating framework arrangements with the Government	Exempt	Taxable depending on the specific tariff
One personal motor vehicle, excluding buses and minibuses of seating capacity of more than eight seats, imported by a public officer returning from a posting in a Kenyan mission abroad and another motor vehicle by the spouse and which is not exempted from Excise Duty under the Second Schedule	Exempt	Taxable depending on the specific tariff

Amendment of the definition of "other fees" as per the *Excise Duty Act*

The Bill proposes to amend the definition of "other fees" to provide clarity interest/return on loans, insurance premium or premium based or related commissions, fees or commissions earned in respect of a loan or any share of profit or an insurance premium or premium based or related commissions specified in the *Insurance Act* are excluded for purposes of excise duty.

The intention of the provision was to levy excise duty on fees, commissions and charges by financial institutions relating to their financial services activities to which they are licensed to perform, and not on non-financial activities. The proposed definition has provided clarity by eliminating ambiguity in the current definition.

Miscellaneous fees and levies

Imposition of Import Declaration Fees (IDF)

The Bill proposes to amend the *Miscellaneous Fees and Levies Act* to introduce IDF on the following items which are currently exempt:

- Gifts and donations by foreign residents to their relatives in Kenya for their personal use
- Samples which in the opinion of the Commissioner have no commercial value
- Aircraft of unladen weight not exceeding 2,000kg and Helicopters of Heading 8802.11.00 and 8802.12.00
- Raw materials for direct and exclusive use in construction by developers or investors in industrial parks of one hundred acres or more located outside the municipalities of Nairobi and Mombasa
- Goods imported for the construction of liquefied petroleum gas storage facilities
- Goods imported for implementation of projects a under special operating framework arrangements with Government

Imposition of Railway Development Levy (RDL)

The Bill proposes to amend the *Miscellaneous Fees and Levies Act* to introduce RDL on the following items which are currently exempt:

- Raw materials for direct and exclusive use in construction by developers or investors in industrial parks of one hundred acres or more located outside the municipalities of Nairobi and Mombasa and goods imported for the construction of liquefied petroleum gas storage facilities
- Goods imported for implementation of projects under special operating framework arrangements with the Government

Power to exempt goods from levies

The Bill proposes to grant the Treasury Cabinet Secretary sole discretion to issue exemptions from IDF RDL. Currently, the *Miscellaneous Fees and Levies Act* provides for exemptions from IDF and RDL where the goods imported are for promotion of investments in Kenya, and whose value are not less than KES200 million. The projects also need to satisfy the public interest criteria.

Introduction of "processing fees" on duty free motor vehicles

The Bill proposed the introduction of processing fees of KES10,000 on all motor vehicles excluding motorcycles imported or purchased duty free prior to clearance through customs under the Fifth Schedule to the *East African Community Customs Management Act, 2004*.

Introduction of processing fees on duty free items is intended to be a revenue raising measure. The proposal retracts the initial exemption of the motor vehicle from duty by imposing a processing fee of equivalent effect.

Endnote

1. See EY Global Tax Alert, *Kenyan Government introduces tax measures in response to COVID-19*, dated 26 March 2020.

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