

## Kenya adjusts specific excise duty rates for inflation

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### Background

Specific rates of excise duty were widely adopted under Kenya's simplified excise tax regime introduced through the *Excise Duty Act* in 2015 following the repeal of *Customs & Excise Act, Cap 472*. With the wide adoption of specific rates of excise duty, the Act also adopted indexation of the specific rates to adjust for the inflationary erosion of collected taxes. Despite the indexation of the rates, the manner in which the new rates were to be adjusted has been reviewed and revised since the Act took effect in December 2015.

In 2017, the adjustment was initially proposed to be made once every two years. This proposal was reversed in 2018 to provide for an amendment frequency of once every year.

The first adjustment of the specific rates was carried out in December 2018 following application of the applied adjustment formula indicated below.

New rate =  $A(1+B)$  where:

- A. Is the rate of excise duty on the day immediately before the adjustment day
- B. Is the adjustment factor for the adjustment day, calculated as the average rate of monthly inflation of the preceding financial year

Pursuant to Section 10 of the *Excise Duty Act*, which empowers the Commissioner to adjust the specific rate of excise duty to take into account inflation in accordance with the adjustment formula, the Commissioner General, through Legal Notice No.194 dated 25 September 2020, published revised rates of excise duty applicable on excisable goods. The new rates, which take effect on 1 October 2020, are based on an average inflation rate of 4.94%.

Specific excise duty rates were last amended vide Legal Notice 109 of 2019 which was effective 1 July 2019 and considered average inflation rate of 5.15%. The current amendments will result in a general increase in prices of the excisable goods and reduction in consumption of the goods (where demand for those goods is elastic).

The following tables set forth the new excise duty rates.

### Petroleum products

The new rates are reflected in the pump price following the Energy Petroleum & Regulatory Authority adjustment of the maximum pump prices of Super Petrol (PMS), Automotive Diesel (AGO) and Kerosene (DPK). The pump prices take into account the inflation adjustment on specific excise rates applicable on petroleum products with effect from 3 October 2020.

Tariff No.	Description	Previous tax rate	Current tax rate
2709.00.10	Condensates per 1000 litres @ 20 deg. C	6,545.59	6,868.94
2710.12.10	Motor spirit (gasoline) regular per 1000 litres @ 20 deg. C	20,509.51	21,522.68
2710.12.20	Motor spirit (gasoline) premium per 1000 litres @ 20 deg. C	20,919.59	21,953.02
2710.12.30	Aviation spirit per 1000 litres @ 20 deg. C	20,919.59	21,953.02
2710.12.40	Spirit type jet fuel per 100 litres @ 20 deg. C	20,919.59	21,953.02
2710.12.50	Special boiling point spirit and white spirit per 1000 litres @ 20 deg. C	8,937.75	9,379.27
2710.12.90	Other light oils and preparations per 1000 litres @ 20 deg. C	8,937.75	9,379.27
2710.19.10	Partly refined (including topped crude) per 1000 litres @ 20 deg. C	1,524.68	1,600.00
2710.19.21	Kerosene type jet fuel per 1000 litres @ 20 deg. C	6,051.38	6,350.32
2710.19.22	Illuminating kerosene	10,835.70	11,370.98
2710.19.29	Other medium oils and preparations per 1000 litres @ 20 deg. C	5,572.95	5,848.25
2710.19.31	Gas oil (automotive, light, amber for high speed engines) per 1000 litres @ 20 deg. C	10,835.71	11,370.99
2710.19.32	Diesel oil (industrial heavy, black, for low speed marine and stationery engines) per 1000 litres @ 20 deg. C	3,890.55	4,082.74
2710.19.39	Other gas oils per 1000 litres @ 20 deg. C	6,624.45	6,951.70
2710.19.41	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematic viscosity of 125 centistokes per 1000 litres @ 20 deg. C	315.45	331.03
2710.19.42	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematic viscosity of 180 centistokes per 1000 litres @ 20 deg. C	630.9	662.07
2710.19.43	Residual fuel oils (marine, furnace and similar fuel oils) of a kinematic viscosity of 280 centistokes per 1000 litres @ 20 deg. C	630.9	662.07
2710.19.49	Other residual fuels oils per 1000 litres @ 20 deg. C	630.9	662.07

## Beverage products

Description	Previous tax rate	Current tax rate	Adjustment (%)
Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	11.04	11.59	4.9%
Bottled or similarly packaged waters and other non-alcoholic beverages, not including fruit or vegetable juices	5.47	5.74	4.9%
Beer, cider, perry, mead, opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 6%	110.62	116.08	4.9%
Powdered beer	110.62	116.08	4.9%
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	189	198.34	4.9%
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 6%	253	265.50	4.9%

## Tobacco and related products

Description	Previous tax rate	Current tax rate	Adjustment (%)
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitute	12,624 per kg	13,247.63 per kg	4.9%
Electronic cigarettes	3,787 per unit	3,974.08 per unit	4.9%
Cartridge for use in electronic cigarettes	2,525 per unit	2,649.74 per unit	4.9%
Cigarette with filters (hinge lid and soft cap)	3,157 per mille <sup>1</sup>	3,312.96 per mille	4.9%
Cigarettes without filters (plain cigarettes)	2,272 per mille	2,384.24 per mille	4.9%
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco;" tobacco extracts and essences	8,837 per kg	9,273.55 per kg	4.9%

## Other excisable products

Description	Previous tax rate	Current tax rate	Adjustment (%)
Motorcycles of tariff no.87.11 other than motorcycle ambulances and locally assembled motorcycles	11,061.78 per unit	11,608.23 per unit	4.9%
Imported sugar confectionery of tariff heading 17.04	KES 20 per kg	KES 20.99 per kg	4.9%
Imported white chocolates, chocolate in blocs, slabs or bars of tariff Nos. 1806.31.00,1806.32.00,1806.90.00	KES 200 per kg	KES 209.88 per kg	4.9%

The 2020 Finance Act amended the *Excise Duty Act* provision relating to annual inflation adjustment by requiring the Commissioner to seek an approval from the Cabinet Secretary for the National Treasury and Planning in order to adjust the specific rates of duty. Thereafter the adjustment notice will be set forth before the National Assembly within 7 days of publication and approved by the Assembly within 28 days. This amendment will come into effect in January 2021.

The next revision of specific rates based on inflation shall be published on 1 October 2021 based on procedures per the above amendment and the average inflation rates for the current financial year. Despite this, the Cabinet Secretary is empowered under Section 18 of the *Excise Duty Act* to vary the excise duty rates subject to a maximum of 10%.

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## Endnotes

1. Mille: Per 1000 sticks of cigarettes.

For additional information with respect to this Alert, please contact the following:

**Ernst & Young (Kenya), Nairobi**

- ▶ Francis Kamau                      francis.kamau@ke.ey.com
- ▶ Christopher Kirathe                christopher.kirathe@ke.ey.com
- ▶ Hadijah Nannyomo                hadijah.nannyomo@ke.ey.com
- ▶ Nancy Ngetich                      nancy.ngetich@ke.ey.com
- ▶ Robert Maina                        robert.maina@ke.ey.com

**Ernst & Young Société d'Avocats, Pan African Tax - Transfer Pricing Desk, Paris**

- ▶ Bruno Messerschmitt              bruno.messerschmitt@ey-avocats.com
- ▶ Alexis Popov                        alexis.popov@ey-avocats.com

**Ernst & Young LLP (United Kingdom), Pan African Tax Desk, London**

- ▶ Byron Thomas                        bthomas4@uk.ey.com

**Ernst & Young LLP (United States), Pan African Tax Desk, New York**

- ▶ Brigitte Keirby-Smith              brigitte.f.keirby-smith1@ey.com
- ▶ Dele Olagun-Samuel                dele.olaogun@ey.com

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