

# Tax Alert

June 2023

## Kenya National Budget 2023/2024

### **“Bottom-up Economic Transformation and Climate Change Mitigation/Adaptation for Improved Livelihoods of Kenyans”**

The Cabinet Secretary (CS) for The National Treasury and Economic Planning presented his Budget Statement for the financial year 2023/2024 on the 15 June 2023. This followed the release of the Finance Bill, 2023. Our comprehensive analysis of the Finance Bill, 2023 can be downloaded from our website: <https://pkfea.com/publications/2023/>

The Statement by the CS included a number of taxation measures which we have summarised in this alert to the extent that they differed from the Finance Bill, 2023. We have also considered and included recommendations made by the National Assembly Departmental Committee on Finance & National Planning. Whilst these pronouncements point at the intended policy direction by Government, the final proposals will be enacted into law upon Assent by the President to Finance Act, 2023. The National Assembly will resume the remaining phases of debate and enactment when it resumes on Tuesday, 20 June 2023.

Once the Bill is enacted into law, we will issue a more detailed Tax Alert with the final position enacted by the National Assembly.

# TAXATION MEASURES

## Income Tax

Item	Proposed changes in the Finance Bill, 2023	Proposed changes in the CS Budget Statement and recommendations from and/or the Departmental Committee on Finance and National Planning (CFP)
Timeline for remittance of withholding taxes (WHT), Rental Income Tax and Digital Asset Tax	Remittance of deducted tax within 24 hours	Remittance of deducted tax within 5 working days
Super tax band	A super tax band at the rate of 35% for monthly personal income exceeding KES 500,000	Monthly personal income of between KES 500,000 to 800,000 taxed at a rate of 32.5% while income above KES 800,000 taxed at a rate of 35%
Interest restriction provisions	Interest restriction only on foreign loans subject to 30% of earnings before interest, tax, depreciation and amortisation (EBITDA). Restricted interest to be claimed within 3 years subject to the EBTDA condition	Interest restriction only on foreign loans subject to 30% of EBITDA. Restricted interest to be claimed within 5 years subject to the EBITDA condition
Realised foreign exchange losses	Realised foreign exchange losses to be deferred with respect to foreign loans. Such deferrals are available for utilisation within 3 years	Realised foreign exchange losses to be deferred with respect to foreign loans. Such deferrals are available for utilisation within 5 years
Branch Repatriation Tax	Introduction of a branch repatriation tax. No rate provided	Branch repatriation tax specified at 15%
Definition of winnings	Winnings definition expanded to include the amount staked or wagered	Winning definition to exclude the amount staked or wagered
Turnover Tax	Turnover Tax (TOT) rate increased from 1% to 3% and reduction of TOT bands from current KES 1 million – KES 50 million annually to KES 0.5 million – KES 15 million	TOT bands at KES 1 million – KES 25 million and TOT rate increased to 3%
Digital Content Monetisation	WHT on Digital Content monetisation at 15%	WHT on Digital Content monetisation at 5%
Due date for Capital Gains Tax (CGT)	Due date for payment of CGT to be the earlier of the full purchase price by the vendor or registration of transfer	Due date of CGT to be the on or before the date of application for transfer of property with the lands office

## Value Added Tax (VAT)

Item	Proposed changes in the Finance Bill, 2023	Proposed changes in the CS Budget Statement and recommendations from and/or the Departmental Committee on Finance and National Planning (CFP)
VAT on Liquefied Petroleum Gas	Reclassify from VAT at a rate of 8% to exempt	Reclassify from VAT at a rate of 8% to zero rate status
Agricultural pest control products, their inputs and raw materials	Reclassify from VAT at zero rate to exempt status	Retain at zero rate
Fertilisers, their inputs and raw materials	Reclassify from VAT at zero rate to exempt status	Retain at zero rate
Pharmaceuticals	All inputs and raw materials for manufacture of medicaments to be reclassified from zero rate to exempt status	All inputs and raw materials for manufacture of medicaments to be retained at zero rate
VAT status of Bioethanol vapour stoves	Bioethanol vapour stoves of HS Code 7321.11.00 to be reclassified from VAT exempt to standard rate of 16%	Bioethanol vapour stoves of HS Code 7321.11.00 to be retained at VAT exempt

## Tax Procedures

Item	Proposed changes in the Finance Bill, 2023	Proposed changes in the CS Budget Statement and recommendations from and/or the Departmental Committee on Finance and National Planning (CFP)
Timeline for remittance of withholding VAT	Remittance of deducted tax within 3 days	Remittance of deducted tax within 5 working days
Tax shortfall penalty	Tax shortfall penalty on deliberate non-payment of tax proposed to be double the tax due (200%)	Tax shortfall penalty to be retained at 75% of tax due

## Tax Appeals Tribunal

Item	Proposed changes in the Finance Bill, 2023	Proposed changes in the CS Budget Statement and recommendations from and/or the Departmental Committee on Finance and National Planning (CFP)
Appeals from Tax Appeals Tribunal (TAT) to High Court	Payment of 20% of the disputed tax before appeals to the High Court	Finance Bill proposal dropped
Addition of new grounds of Appeal at the TAT or Courts	Taxpayers barred from seeking leave to introduce new grounds of appeal	Taxpayers to be allowed to seek leave to introduce new grounds of appeal

## Excise

Item	Proposed changes in the Finance Bill, 2023	Proposed changes in the CS Budget Statement and recommendations from and/or the Departmental Committee on Finance and National Planning (CFP)
Timeline for remittance of excise taxes on other sectors	The Commissioner is empowered to introduce remittance period for certain sectors to within 24 hours after deduction	The CFP proposes to increase the timeline for remittance of excise duty on certain sectors to within 5 working days
Betting, gaming, price competition and lottery	Excise duty rate increased from 7.5% to 20%	Excise duty rate increased from 7.5% to 12.5%
Sugar	Introduction of excise duty at KES 5 per kg on sugar, except sugar purchased or imported by pharmaceutical manufacturers	Exemption of excise duty on local sugar. Imported sugar is subject to excise duty at KES 5 per kg, except sugar purchased or imported by pharmaceutical manufacturers
Imported fish	Excise duty rate introduced on imported fish at KES 100,000 per MT or 20%, whichever is higher	Excise duty rate introduced on imported fish at KES 100,000 per MT or 10%, whichever is higher
Mobile money transfer	Excise duty rate on mobile money transfer increased from 12% to 15%	CS proposes reduction of excise duty rate on mobile money transfer from 12% to 10%  However, the CFP proposes to retain the excise duty rate on mobile money transfer at 12%
Money transfer by banks, money transfer agencies and other financial services	Reduction of excise duty rate from 20% to 15%	CS proposes reduction of excise duty rate from 20% to 15%  However, the CFP proposes to reduce the excise duty rate from 20% to 12%
Chocolate and other food preparations containing cocoa	Introduction of excise duty at KES 257.55 per kg	Exemption of excise duty on local chocolates

## Excise (continued)

Item	Proposed changes in the Finance Bill, 2023	Proposed changes in the CS Budget Statement and recommendations from and/or the Departmental Committee on Finance and National Planning (CFP)
Pasta of tariff 1902	Introduction of excise duty at the rate of 20% on local pasta of tariff 1902	Retain excise duty only on imported pasta of tariff 1902
Wigs, false beards, eyebrows and eyelashes, switches and the like, and other products of heading 6704, human hair and other products of heading 6703, and artificial nails of tariff no. 3926.90.90	Introduction of excise duty at 5% on the listed items	Abolishment of excise duty on the listed items
Supplies for the manufacture of electric vehicles	Bill was silent	Introduce exemption on supplies for manufacture of electric vehicles

## Employment

Item	Proposed changes in the Finance Bill, 2023	Proposed changes in the CS Budget Statement and recommendations from and/or the Departmental Committee on Finance and National Planning (CFP)
Housing Fund/Levy	Contributions to a National Housing Fund of 3% by both employer and employee, capped at KES 5,000 per month	Contributions of 1.5% by both employer and employee to a National Housing Levy. However no mention on whether this is capped

## Customs Duties

Item	Current Duty Rate	Proposed Duty Rate by the CS Treasury
Rice	75%	35%
Wheat (subject to recommendation by the Ministry of Agriculture)	35%	10%
Raw materials for manufacture of parts used in the assembly of motor vehicles (leaf springs, radiators and wiring harness)**	0%	0%
Completely Knocked Down (CKD) kits used in the assembly of motor cycles*	10%	10%
Iron and steel products*	35%	35%
Vegetable products*	35%	35%
Inputs for manufacture of animal feeds	10%	0%
Inputs for manufacture of baby diapers*	0%	0%
Baby diapers*	35%	35%
Leather and footwear products*	35%	35%
Raw materials and inputs for manufacture of footwear products*	0%	0%
Inputs for manufacture of roofing tiles*	0%	0%
Paper and paper products from proliferation of cheap imports	10%, 25%	35%
Safety matches, particleboards, plywood among other goods of timber***	10%, 25%	10%, 25%
Furniture	35%	45%
Plastic and rubber products	25%	35%

## Customs Duties (continued)

Item	Current Duty Rate	Proposed Duty Rate by the CS Treasury
Smartphones and other telephones for cellular networks or other wireless networks*	25%	25%
Inputs for assembly of smartphones and other cellular phones*	0%	0%
Billets used for manufacture of wire rods and other similar products	0%	10%

\* Extension of previous year custom duty rate

\*\* Extension of duty remission scheme

\*\*\* Specific rates to apply in addition to ad valorem duty range of USD 120/MT to USD 200/MT

## MISCELLANEOUS PROVISIONS

### Privatisation Bill, 2023

The Privatisation Bill, 2023 was presented to the Parliament in May 2023 and once enacted seeks to enable State Owned Enterprises to achieve their full potential by entrenching commercial principles.

### Banking Sector

The Central Bank of Kenya (CBK) introduced the Digital Credit Providers Regulations of 2022 in May 2022. CBK is working with other regulators such as the Office of the Data Protection Commissioner to ensure that all Digital Credit Providers are brought into the regulatory ambit to protect consumers.

CBK will launch the Central Securities Depository code ('DhowCSD') that is aimed at scaling up services to the public, market participants as well as the Diaspora to deliver seamless investor experience and convenience. In the fiscal year 2023/2024, CBK alongside other stakeholders will:

- Undertake a comprehensive review of the National Payment Systems Act, 2011 and its regulations to modernise payments, legal and regulatory frameworks; and
- Develop and implement an interoperable payments platform to unlock cost effective, real-time and retail payments across banks, payment service providers, card schemes and other regulated financial institutions.

### Kenya Deposit Insurance Corporation (KDIC)

KDIC is in the process of reviewing the current coverage limited of KES 500,000 with a view to ascertain its adequacy in protecting depositors as well as establish an Alternative Dispute Resolution (ADR) framework to fast track release of available resources for institutions that have been affected.

### Capital Markets Authority (CMA)

The CMA has developed the Capital Markets (Public Offers and Disclosures) Regulations, 2023 in order to support Micro, Small and Medium Enterprises (MSME) to raise debt and equity capital at the Nairobi Securities Exchange.

The CMA is also in the process of implementing the Capital Markets (Investment Based Crowdfunding) Regulations, 2022 to support Kenyan start-ups to raise finance locally and around the globe.

### Pension Reforms

A Kenya National Entrepreneurs Saving Trust (KNEST) has been formed with a view that the informal sector can contribute to this Trust as a pension scheme.

## Insurance Sector

The Insurance Regulatory Authority (IRA) has issued a micro-insurance Framework that will uplift insurance penetration coverage for individuals with low income.

The Insurance (Amendment) Bill, 2023 has been submitted to the Parliament to provide for offences relating to the management of an insurer. The Bill seeks to motivate accountability and observance of duties of Key Management Persons and has amendments aimed at enhancing the efficiency of IRA.

## SACCO Societies Reforms

The Sacco Societies Regulatory Authority (SASRA) is working on amendments to the Sacco Societies Act, 2008 to provide for licensing and supervision of a Shared Sacco Services platform.

SASRA has proposed amendments to the Sacco Societies Act, 2008 to provide for a framework for appointment of Trustees to the Deposit Guarantee Fund (DGF), so that a resolution mechanism can be in place for financially distressed SACCO's.

## National Health Insurance Fund (NHIF), 2023 Regulations

Regulations have been proposed to change contributions to NHIF as follows:

- Standard Contribution - 2.75% of the gross monthly income derived from employment in the preceding month, for salaried employees; and
- A contributor in self-employment – the higher of KES 300 or a special contribution at a rate of 2.75% of the declared or assessed gross monthly income of the contributor.

## Amendments to the Betting, Gaming and Lotteries Act

Proposal to allow KRA to apply the provisions of the Tax Procedures Act in enforcing tax collection. Previously there was no enforcement provision in the Betting, Gaming and Lotteries Act.

## Export Processing Zones (EPZ) Act and the Special Economic Zones (SEZ) Act

To encourage enterprises in EPZ and SEZ to purchase raw materials or inputs from the domestic markets for use in manufacturing, these will be exempt from import duty when originating from the customs territory when sold into the domestic market.



right people  
right size  
right solutions

## KENYA

### Nairobi

Kalamu House, Grevillea Grove  
Off Brookside Drive  
P. O. Box 14077 - 00800  
Nairobi  
Tel: (+254 20) 4270000  
Cell: (+254) 732 144000

E-mail: [pkfnbi@ke.pkfea.com](mailto:pkfnbi@ke.pkfea.com)

### Mombasa

1st Floor, Pereira Building  
Pramukh Swami Maharaj Road  
P. O. Box 90553 - 80100  
Mombasa  
Tel: (+254 41) 2226422/3  
(+254 41) 2315846/97  
Cell: (+254) 724 563668

E-mail: [pkfmsa@ke.pkfea.com](mailto:pkfmsa@ke.pkfea.com)

### Malindi

Malindi Complex  
Lamu Road  
P. O. Box 5572 - 80200  
Malindi  
Tel: (+254 42) 2120701  
(+254 42) 2130862  
Cell: (+254) 722 209620

E-mail: [pkfmlid@ke.pkfea.com](mailto:pkfmlid@ke.pkfea.com)

### Nakuru

Fourth floor, Office Block  
Westside Mall, Junction of  
Kenyatta Avenue and West Road  
P. O. Box 1236 - 20100  
Nakuru  
Tel: (+254 51) 2211906  
Cell: (+254) 796 015656  
E-mail: [pkfnku@ke.pkfea.com](mailto:pkfnku@ke.pkfea.com)

## UGANDA

### Kampala

Kalamu House  
Plot 1B  
Kira Road  
P. O. Box 24544  
Kampala  
Tel: (+256 312) 305800

E-mail: [pkfkam@ug.pkfea.com](mailto:pkfkam@ug.pkfea.com)

## TANZANIA

### Dar es Salaam

1st Floor, Tower B  
Girl Guides Building, Plot No. 1088  
Kibasila Street, Upanga  
P. O. Box 7323  
Dar es Salaam  
Tel: (+255 22) 2152501/3/4  
Cell: (+255) 784 520097  
E-mail: [info@tz.pkfea.com](mailto:info@tz.pkfea.com)

## RWANDA

### Kigali

KG 5 Avenue 44, Kacyiru  
P. O. Box 341  
Kigali  
Tel: (+250) 255 104514  
Cell: (+250) 788 454746  
(+250) 788 386565  
(+250) 738 386565  
E-mail: [pkfkgi@rw.pkfea.com](mailto:pkfkgi@rw.pkfea.com)

## SOUTH SUDAN

### Juba

C/O PKF Kenya LLP  
Kalamu House, Grevillea Grove  
Westlands, Off Brookside Drive  
P.O. Box 14077 - 00800  
Nairobi  
Tel: (+254 20) 4270 000  
Cell: (+254) 732 144 000

E-mail: [pkfnbi@ke.pkfea.com](mailto:pkfnbi@ke.pkfea.com)



**Michael Mburugu**  
[mmburugu@ke.pkfea.com](mailto:mmburugu@ke.pkfea.com)



**James Mulili**  
[jmulili@ke.pkfea.com](mailto:jmulili@ke.pkfea.com)



**Ritesh Mirchandani**  
[rmirchandani@ke.pkfea.com](mailto:rmirchandani@ke.pkfea.com)

This newsletter is written in general terms for guidance only and is not a substitute for professional advice. Whilst every care has been exercised in ensuring the accuracy of information contained herein, we will not accept any responsibility for errors or omissions or for any action taken, or refraining from action without appropriate professional advice. This newsletter is for the exclusive use by the clients of PKF and its associates and no part of it may be reproduced without our prior written consent.

PKF Kenya LLP is a member firm of the PKF International Limited family of legally independent firms and does not accept any responsibility or liability for the actions or inactions of any individual member or correspondent firm or firms.

[www.pkfea.com](http://www.pkfea.com)