O'BANG LAW
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SELECTIVE SUMMARY OF THE TAX LAWS (AMENDMENT) ACT, 2024

INTRODUCTION

The infamous Finance Bill, 2024, which led to widespread protests across Kenya, placed immense economic pressure on the Kenyan National Treasury as they sought to come up with additional revenue streams for the government, which would have been made had the said Bill passed. As such, this led to the rise of the Tax Laws (Amendment) Bill, 2024, and the Tax Procedures (Amendment) (No.2) Bill, 2024, which were assented into law on December 11, 2024.

Our summary only highlights some of the proposed amendments.

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Below is a selective summary concerning some of the implications expected with the assent of the two laws:

Industry / Category	Current law	As is or summary of the new proposed amendment	Comments Linking to the Proposed Changes
The Income Tax Act			
Interpretation	Income Tax Act (ITA) s 2	The Act replaced the definition of a "royalty" as the previous definition it encompasses more forms of intellectual property rights and technology transfers. The Act further added definitions of donations, public entities, and registered retirement funds, pension funds, and provident funds.	Alteration and addition of these definitions have provided clarity and consistency in the interpretation and application of tax laws, consequently expanding the tax base.
Taxable Income	ITA s 5(2b)	The Act has increased the threshold for fringe benefits to be included in taxable income from KES. 36,000/= to KES. 60,000/=.	This means that employees will now be able to receive fringe benefits up to the value of KES. 60,000/= per year without having to pay income tax on them. An increase to this threshold recognizes the increased cost of living and provides some relief to taxpayers.
Taxable Income Exemptions	ITA s 5(4f)	The Act has increased the tax-free meal allowance to the first KES. 60,000/=. The Act has further expanded the scope to include meals provided by the employer, even if not in a canteen or cafeteria, as the Law previously constricted tax-free meals to those which were employer-operated or were from third-party canteens.	This amendment recognizes the increased cost of living and provides some relief to taxpayers, particularly employers who offer meal allowances.
Taxable Income (Digital Marketplace)	ITA s 10(4 & 5)	The Act has introduced a new tax on income derived from digital marketplaces and platforms as it is cognizant of the ever-	The Act has increased revenue streams for the government, being cognizant that the digital economy is growing at a rapid rate.

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		growing digital marketplace. Any income derived from the digital marketplace will be considered as incomed derived from Kenya, should a transaction result to this income.	
	ITA s12E (currently not present)	The Act has introduced taxation of non-resident businesses that operate in Kenya through digital means, even without a physical presence.	
Taxable Income (Multinational Corporations)	ITA s 12G (currently not present)	The Act introduces a minimum top-up tax in Kenya. This tax is designed to ensure that multinational corporations pay a minimum level of tax, regardless of any tax incentives or deductions they may claim.	The government is able to increase its tax base, consequently increasing its revenue.
Deductions Allowed	ITA s 15(2ac to ae) (currently not present)	The Act has provided for the following deductions: Affordable Housing, Post-Retirement Medical Fund, and Social Health Insurance Fund (SHIF).	These additions show the government's efforts to promote social welfare, encourage savings, and provide tax relief to individuals. Further, the increased limit reflects the rising cost of housing and living expenses in Kenya. By allowing a higher deduction, the government shows effort in trying to alleviate the tax burden on homeowners.
	s 15(3b)	The amendment increases the maximum amount of interest on a home loan that can be deducted from taxable income from KES. 300,000/= to KES. 360,000/=.	
The Value Added Tax Act			
Time of Supply for Exported Goods	Value Added Tax Act (VAT) s 12(5)	The Act has introduced that the time of supply for exported goods will be when the	By clearly defining the time of supply, it helps businesses accurately determine the VAT

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	(currently not present)	Customs Authorities issue a Certificate of Export or an equivalent document.	period in which to account for the export sale, and further prevent tax evasion by ensuring that VAT is accounted for correctly on export sales.
Deduction of Input Tax	VAT s 5(ea) (currently not present)	This subsection introduces a specific provision for input tax credit claims related to zero-rated or exempted supplies. It allows for the carry-forward of excess input tax credits that arise due to a reduction in tax rates.	This is likely to benefit businesses that have made significant investments based on previous tax rates and now face reduced revenue due to zero-rating or exemption of their products or services.
East African Community Customs Management Act, 2004	VAT s 65	The Act has added "exported goods" to the scope of customs procedures, signifying an expansion of the tax authority's oversight over both imports and exports.	By extending its oversight to both imports and exports, the Kenyan tax authority aims to ensure fair taxation and promote economic growth whilst curbing revenue loss.
The Excise Duty Act			
Interpretation	Excise Duty Act (EDA) s 2 (currently not present)	The Act provides the definition of a “digital lender”, which means person holding a valid digital credit providers license issued by the Central Bank of Kenya.	This amendment aims to ensure that digital lenders are properly recognized by Kenyan law and subjected to appropriate taxation and regulation.
Excisable Goods and Services	EDA s 2 (currently not present)	Excise duty has been extended to services offered by non-residents on digital platforms.	This amendment seeks to expand the scope of excisable services, which in turn generates more revenue for the government.
Goods and Services not Liable to Excise Duty	EDA s 7	The Act has inserted the word “spirit,” after the word “beer” to capture an additional alcoholic product.	The amendment ensures consistency in the application of excise duty. By explicitly including "spirit" in the list of exempt goods, any ambiguity or potential misinterpretation can be avoided, and this further expands the streams of revenue collection for the government.

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Excise Duty (Alcoholic Beverages)	EDA s 36(1A)	This provision extends the deadline for licensed manufacturers of alcoholic beverages to pay excise duty from 24 hours upon removal of the goods from the stockroom to the 5th day of the following month.	Extending the deadline alleviates administrative burdens on taxpayers and reduce the risk of penalties for late payments, whilst still maintaining a revenue stream for the government.
Rates of Excise Duty on Excisable Goods	EDA First Schedule	The Act has made numerous additions and increments to excise duty on excisable goods as follows:	
		Addition of Locally Assembled Electric Vehicles as excisable good.	This amendment aims to promote the adoption of electric vehicles in Kenya. By exempting locally assembled electric vehicles from excise duty, the government incentivizes local manufacturing and reduces the cost of electric vehicles for consumers.
		Increased Excise Duty on Cigarettes, Tobacco Products, and Nicotine Products, i.e., e-cigarettes and vaping devices.	This increase in excise duty on cigarettes and tobacco products is likely aimed at discouraging smoking and generating additional revenue for the government. It aligns with global trends of increasing taxes on tobacco products to discourage consumption.
		Increased Excise Duty on Alcoholic Beverages.	The increased excise duty on alcoholic beverages is likely aimed at reducing alcohol consumption and generating additional revenue. It may also be a measure to control alcohol-related social problems.
Miscellaneous Fees and Levies Act			

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Railway Development Levy	Miscellaneous Fees and Levies Act (MFLA) s 8(2)	The levy is increased from 1.5% to 2% of the customs value for all goods imported into the country via railway.	The amendment seeks to generate more revenue for the government, particularly for the development and maintenance of railways.
Goods Exempt from Import Declaration Fee When Imported or Purchased Before Clearance Through Customs	MFLA Second Schedule (currently not present)	Goods of Chapter 5407 and Chapter 6309 imported as raw materials for manufacture of textile products in Kenya upon recommendation of the Cabinet Secretary responsible for industry are exempt from Import Declaration Fee.	The amendment seeks to develop the manufacturing industry in Kenya by reducing costs incurred in form of taxes, consequently allowing entities/persons to effectively manufacture their products.

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