



KENYA : Review of 2017/18 Budget, Finance Bill 2017 & Tax Changes



**Creating Jobs,
Delivering a Better
Life For All Kenyans**



Economic Review

Performance

- The world economy is expected to grow at a rate of 3.4% in 2017, up from the 3.1% estimate in 2016
- Economies of sub-Saharan Africa countries are expected to grow at a rate of 2.8% in 2017 up from an estimate of 1.6% in 2016. This is as a result of sustained infrastructure investment, firming up of oil prices and buoyant service sectors
- The Kenyan economy is expected to grow at the same rate of 5.9%, as 2016. However, this growth rate could be slowed down by the drought situation and the slowdown in private sector credit

Revenue and Expenditure

- This year's projected revenue is up from that of the year 2016/2017 of KES 1,515.5 billion
- The projected revenue collection including Appropriation in Aid (AIA) for the year 2017/2018 is KES 1,704.5 billion equivalent to 19.6% of the GDP
- Out of this, the ordinary revenue projected is KES 1,549.4 billion (17.8% of GDP)
- The total expenditure and net lending are projected at KES. 2,287.9 billion equivalent to 26.3% of GDP
- Out of this recurrent expenditure will amount to KES 1,347.3 billion (15.5% of GDP), KES. 640.3 billion for development expenditure (7.4% of GDP) and KES, 5.0 billion as contingency to cater for unseen expenditures

Fiscal Deficit

- The fiscal deficit for the year 2017/2018 will be KES.524.6 billion, equivalent to 6.0% of the GDP. This will be financed through borrowing from external and internal sources
- Net external financing will be KES. 256.0 billion (2.95 Of GDP) while domestic financing will comprise of KES. 268.6 billion (3.1% of GDP)

Interest Rate

- The Banking (Amendment) Act 2016 capped interest rate at 4% above the CBK rate. In 2016 the CBK rate was set at 10% by the Monetary Policy Committee (MPC)
- The MPC maintained this rate in the first quarter of 2017. This therefore pegs the market lending rate at 14%

Inflation

- The annual average rate of inflation stood at 6.3% as at December 2016. This was a slight decrease from the rate of 6.58% as at December 2015
- The monthly inflation rate as at February 2017 stood at 9.04%



Manufacturing Sector

- Manufacturing is a key driver of the economy as envisioned in vision 2030.
- Manufacturing as a share of GDP has been 10-11%
- Growth in this sector slowed in the first quarter of 2017 due to drought and is likely to do so in the second quarter as companies are likely to adopt a hesitant attitude ahead of election
- Data from the Kenya National Bureau of Statistics shows the manufacturing sector grew by 3.6% in the first quarter of 2016, down from 4.1 percent growth in the quarter of 2015
- In the third quarter to last year the sector's growth rate was 1.9% compared with 3.3% in the same quarter in 2015. (source: Reuters)

The Government has made the following policy priorities:

- Continue with rolling out Special Economic Zones (SEZ) in key urban areas e.g. Mombasa, Kisumu and Lamu to diversify manufacturing activities, create employment and boost Kenya's investment profile
- Under the SEZs, the government will provide incentives such as VAT exemption, reduced corporate tax rates for a defined period, access to quality infrastructure and one stop shops for licenses

Manufacturing Sector

- The Government will focus on agro - processing industry to add value to the country's agricultural produce
- The government together with other stakeholders will develop an Automobile Industry Development Policy for Kenya and Development Plan.
- These interventions will enable the automobile industry to grow and create jobs in Kenya and the region
- KES 450 million allocated to revive RIVATEX
- KES 1.6 billion allocated for the leather industrial park and textile development
- KES 250 million allocated for the modernization of KCC, to make it a strategic milk processor..



Agriculture Sector

The sector contributes 30% of the country's GDP and accounts for 80% of the national employment. The CS proposed the following allocations:

- KES 6.3 billion for rehabilitated and expansion of national irrigation schemes e.g. Bura, Mwea and Galana Kulalu
- KES 0.7 billion to support crop and livestock insurance schemes
- KES 4.1 billion to subsidize fertilizers
- KES 1.3 billion for the strategic grain reserves
- KES 0.1 billion for mechanization of agriculture
- KES 0.1 billion for revival of the pyrethrum
- KES 1.6 billion for Issuance of Title Deeds
- KES 0.9 billion for Digitization of Land Registries



Tourism Sector

Data from Kenya National Bureau of Statistics (KNBS) shows tourism earnings declined to Sh84.6 billion in 2015, from Sh87 billion a year earlier. Earnings have declined over the years from Sh97 billion in 2011. Arrivals went down to 1.18 million visitors in 2015 from 1.35 million in 2014. This was as a result of insecurity and travel advisory

However in the nine months to September 2016, tourist arrivals to Kenya stood at 983,876, a 12% growth compared to 874,544 tourists over a similar period in 2015. Kenya Tourism Board (KTB) is confident of sustaining the sector's growth momentum from last year despite 2017 being an election year. Below are the measures put in place in order to realize the benefits from the sector:

- Strengthen the Tourism Regulatory Authority (TRA) to ensure proper conduct of tourism service providers to bring order in the industry
- Allocation of KES 1 billion for sustaining new markets and sitting booths
- KES 600 million for capital lending to hoteliers and KES 100 million for restoration of Fort Jesus
- To provide support to ensure a successful turnaround has been achieved at Kenya Airways

ICT Sector

According to the 2016 Economic Survey (KNBS), the ICT sector was a significant contributor of growth in 2014, with an expansion of 13.4% from 12.3% in 2013.

The sector's growth slowed to 7.3% in 2015. The value of ICT goods exported increased by 64.1% to KES 2.1 billion in 2015, compared to KES 1.3 billion in 2014. The value of ICT equipment imports increased by 23.1% compared to KES 51.3 billion in 2015. The CS has proposed the following measures:

- To connect every county to fibre optic technology
- Improve Government service delivery through ICT
- KES 0.3 billion allocated for the Single Window Support Project
- KES 0.15 billion allocated for the continued roll out of IFMIS to counties
- KES 0.6 billion allocated to the development of Konza Technopolis



Financial Sector

- The Movable Property Security Rights Bill was approved by the National Assembly in 2016. It's intended to allow for movable property to be security for borrowing
- The Nairobi International Financial Centre Bill, which is intended to position Nairobi as an international financial hub, has been approved by the Cabinet and will be submitted to the National Assembly for approval
- There is a proposal to merge the financial sector regulators under the Financial Service Authority Bill which is undergoing legal drafting
- Islamic financing is a major source of funding development expenditures worldwide. Legislative amendments are proposed to the Capital Markets Act and Cooperative societies Act and Sacco Act to facilitate for Sharia compliant finance products
- The CS also intends to amend the Public Finance Management Act to provide for issuance of Sukuk bond (Islamic bond) as an alternative source of financing development projects

Financial Sector

- Tax statutes will also be amended to provide equivalent tax treatment of these new financial products with the conventional financial products
- Regulations will also be issued to facilitate the development of Takaful Retirement Benefits Scheme in Kenya



- The CS proposes to amend the Insurance Act to make licensing perpetual as is the case in Banking and Retirement schemes
- Intermediaries such as insurance brokers and loss assurers will continue to be issued with an annual licence
- M-Akiba bond ,launched on 23 March 2017, will enable Kenyans to invest in government bonds from as low as KES. 3,000 up to a maximum of KES 140,000 per day. There will be tax free annual interest earned of 10% and the principal amount will be returned in three years

Business Regulatory Reforms

➤ The time and cost of opening and operating a business in Kenya has reduced over time.

The Government to further reduce this costs and time has established a One Stop Centre (OSC) for investors which will be operational by April 2017 (according to the CS)

➤ The Government has also established e-regulation and will establish e-opportunities to enable investors interested in Kenya to search for information about opportunities in Kenya online at the comfort of their homes. These measures together with Huduma centres will increase Foreign Direct Investment

Improving National Security

- KES 8.1b is allocated for leasing of police service vehicles
- KES 24.8b allocated for modernisation of Kenya Police Service (KPS) and Kenya Defence Force (KDF)
- KES 12 billion for enhanced security operations
- KES 0.9b for the construction and equipping of the national security operations and KES 2.0b for securing our borders
- KES 5.1 for police and prison officers' medical insurance scheme and KES 1.7b for Group Life Insurance for Police



Infrastructure Development

The Government has initiated various projects to improve infrastructure such as the Standard Gauge Railway (SGR), the construction of Outer Ring Road, expansion and modernisation of airports. In light of this the government has allocated the following fund;

- KES 134.9 billion for on-going road construction works
- KES 44.3 billion for foreign financed roads and KES 27 billion for low volume seal roads
- KES 49.3 billion for road maintenance from the Road Maintenance Levy
- KES 75.6 billion for the SGR
- KES 10b for the LAPSSET project
- KES 3.6b for the Mombasa Port Development and
- KES 0.2b for the maintenance of ferries

Sports, Culture and Arts

- Government to upgrade five stadiums
- KES 200 million allocated for the construction of sports Academy
- KES 550 million allocated for completion of the Ultra Modern National library

Empowering the Youth and Women

The following measures are put in place:

- KES 18.3 billion allocated to the Youth Empowerment Programme (YEP)
- KES 0.6 billion To Youth Enterprise Development Fund (YEDF)
- KES 0.7 to Youth Employment and Enterprise (*Uwezo* Fund)
- KES 0.8 billion for Women Enterprise Fund
- Establishment of the Preference and Reservation Secretariat to oversee the implementation of preference and reservations as provided for in the Public Procurement and Asset Disposals Act 2015.

Caring for the Vulnerable

The following measures are put in place:

- KES 9.6 billion allocated to orphans and vulnerable children
- KES 7.9 billion allocated for cash transfers to elderly persons. Persons above age of 70 years to receive cash transfer in form of monthly stipend and NHIF cover
- KES 1.2 billion allocated to person with disabilities
- KES 0.4 billion allocated to National Development Fund for Persons With Disability
- KES 0.3 billion allocated for the rehabilitation of street families
- KES 0.5 billion allocated to Children Welfare Society
- KES 3.5 billion to the Presidential Secondary School Bursaries Scheme
- KES 3.5 billion allocated to the Kenya Hunger Safety Net Programme

Caring for the Vulnerable

The following measures are put in place:

- KES 0.7 billion for emergency relief
- KES 7.7 billion to Equalization fund
- KES 100 million for the completion of the Economic Stimulus Package
- KES 250 million for Constituency Industrial Development Centres
- KES 2.1 billion for Affirmative Action and
- KES 30.9 billion for the National Government Constituency Development Fund (CDF)

Healthcare

To ensure that Kenyans have access to safe, quality and cost effective health services, the government has put in place the following measures:

- KES 0.7 billion for vaccines
- KES 0.6 billion allocated to the National Aids Control Council (NACC)
- KES 5.0 billion for leasing medical equipment
- KES 4.3 billion to support the Free Maternal Healthcare Programme (FMHP)
- KES 2.7 billion for doctors/clinical officers/nurses on internship
- KES 9.0 billion for Kenyatta National Hospital (KNH) and KES 6.2 billion for Moi Teaching and Referral Hospital (MTRH),
- KES 2.0 billion to Kenya Medical research Institute (KEMRI),



Healthcare

To ensure that Kenyans have access to safe, quality and cost effective health services, the government has put in place the following measures:

- KES 0.7 billion for cancer services
- KES 3.9 billion for Kenya Medical Training College (KMTTC)
- KES 0.9 billion for free primary healthcare
- KES 0.3 billion for Health Insurance Subsidy Programme (Elderly & Disabled)
- KES 1.1 billion for rollout of universal health coverage to expand access to affordable healthcare



Education

To support the various initiatives in the education sector and to ensure increase in enrolment and capitation for free primary and secondary education, the CS made the following allocation;

- KES 4 billion to KNEC for examinations fee waiver for class eight and form four candidates
- KES 14 billion for Free Primary Education (FPE)
- KES 33 billion Free Day Secondary Education Programme (FDSEP)
- KES 0.5 billion to support provision of sanitary towels
- KES 2.5 billion to the school feeding programme in arid and semi arid areas (ASALs)



Education

- KES 2.0 billion for recruitment of additional teachers
- KES 13.4 billion for deployment of digital devices to schools
- KES 0.3 billion for upgrading of national schools
- KES 6.0 billion for technical, vocational education and training
- KES 83.8 billion for university education



Direct Taxes Changes

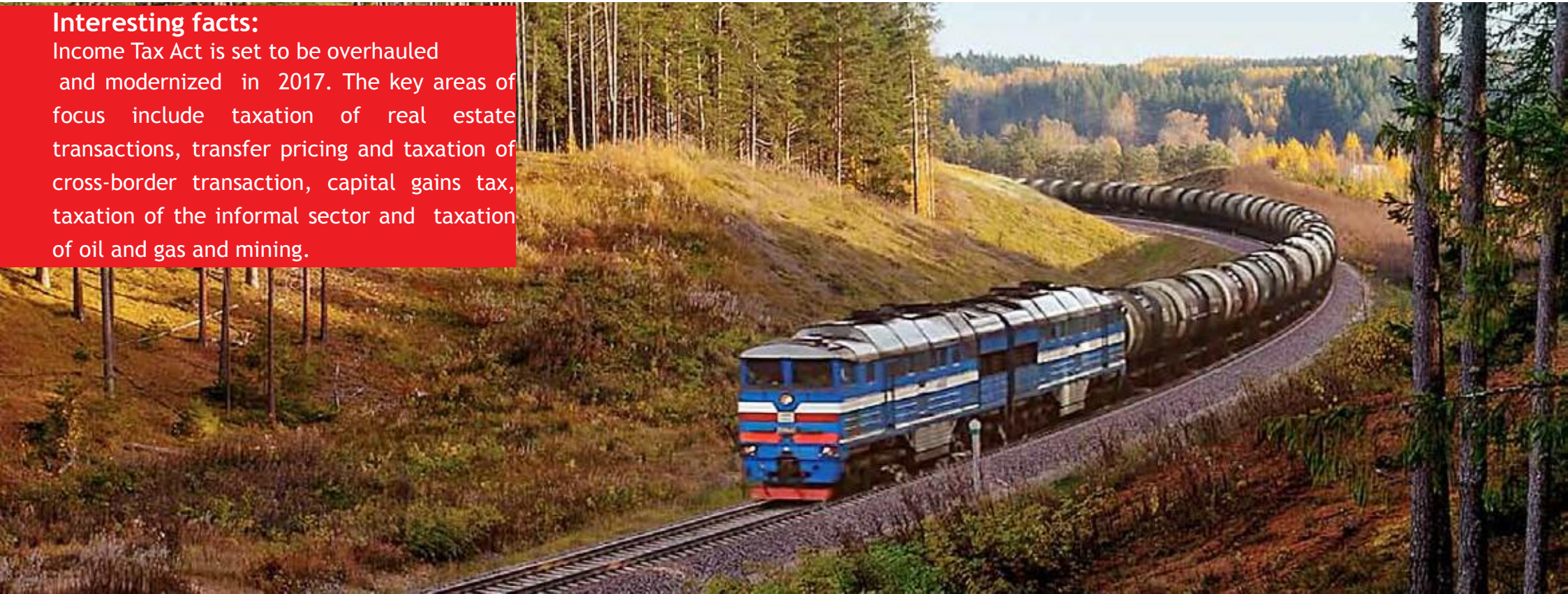
PAYE and Corporation Tax

Income Tax Act

The Income Tax Act (Cap 470) outlines the framework for charging corporation tax, individual taxation, capital gains tax and withholding tax

Interesting facts:

Income Tax Act is set to be overhauled and modernized in 2017. The key areas of focus include taxation of real estate transactions, transfer pricing and taxation of cross-border transaction, capital gains tax, taxation of the informal sector and taxation of oil and gas and mining.



PAYE

Expansion of Individual Tax Brackets Bands & Relief

- Individual tax bands are expanded by 10%, leading to a slight reduction in tax liability
- Personal relief is increased from KES 1,280 pm to KES 1,408 pm
- The changes are effective 1st January 2018

Rates	Previously	2016 Budget	2017 (Effective date 01 January 2018)
10%	First 10,164	First 11,180	First 12,298
15%	Next 9,576	Next 10,534	Next 11,587
20%	Next 9,576	Next 10,534	Next 11,587
25%	Next 9,576	Next 10,534	Next 11,587
30%	Above 38,892	Above 42,782	Above 47,059
Personal Relief	1,162	1,280	1,408
Lowest Tax Band	10,164	11,180	12,298

PAYE

Tax on Pension Withdrawals

- Tax rates on pension withdrawals have been aligned with individual tax rates;
- The changes are effective 1st January 2018

	Withdrawal (pa)	Tax Rate
On the first	KES 147, 580	10%
On the next	KES 139, 043	15%
On the next	KES 139,043	20%
On the next	KES 139,043	25%
On all income over	KES 564,709	30%

Corporation Tax

Transfer Pricing on Transactions with SEZ and EPZ

- With effect from 3rd April 2017, transfer pricing rules shall apply to a transaction between related parties where one operates in a Special Economic Zone (SEZ) or Export Processing Zone (EPZ). Those are referred to as “preferential tax regimes”
- A preferential tax regime is defined as a regime that provides for a reduced tax rate or base
- This amendment opens doors for KRA to make transfer pricing adjustments on related party transactions with EPZ’s (and SEZs), an initiative that has previously faced legal hurdles as such transactions were not listed under the Transfer Pricing Rules to be subject to the arm’s length principle

Islamic Transactions

- Effective 3rd April 2017, earnings from Islamic Finance arrangements will be treated as interest income. Withholding tax will apply accordingly at 15%

Corporation Tax

Incentives to the Special Economic Zones (SEZs)

- With effect from 1st January 2018, withholding tax chargeable by SEZs on payments to non-residents has been amended as follows:
 - ❖ Dividends payable by an SEZ enterprise, developer or operator to a non-resident person have been exempted from tax
 - ❖ Withholding tax on management fees and royalties paid by SEZ's to non-resident persons are reduced from 20% to now 5%
 - ❖ Withholding tax on interest is reduced from 15% to 5%

- A 100% Investment Deduction shall be allowed on the cost of construction of a building or the cost of purchase and installation of machinery by an SEZ, in the first year of use. This aligns the treatment with that of EPZs

Corporation Tax

Tax Rate for Motor Vehicle Assemblers

- Effective 1st January 2018, corporation tax rate is reduced to 15% (from 30%) for local motor vehicle assemblers for the first 5 years from commencement of operations

Deductibility of Donations to National Disasters

- Effective 3rd April 2017, expenditure incurred on donations for the alleviation of distress during national disaster as declared by the President shall be tax deductible provided they are channeled through the Kenya Red Cross, a County Government or any other institution responsible for management of national disaster

Tax Amnesty

- The deadline for application of tax amnesty on income derived from foreign assets has been extended to 30th June 2018 from 31st December 2017
- The Amnesty application is valid only if the income for 2016 is declared, accounts and return are filed for the year of income 2016 and the declared funds are transferred back to Kenya

Corporation Tax

Proposed Changes Regarding Taxation:

- Tax legislation to be introduced to guide how county governments levy taxes (fees) to ensure that they don't violate the Constitution. Under Article 209 of the Constitution, county governments only levy Property taxes, Entertainment levy and any other tax authorized by an Act of Parliament
- Only national government may raise income tax, VAT, customs duties, other import and export taxes and excise tax

Review of the Income Tax Act

The Act is to be overhauled and modernized. Priority issues include:

- Capital gains (CGT)
- Compensating tax
- Taxation of pensions
- Taxation of extractive industries
- Taxation of cross border transactions

Indirect taxes

VAT and Excise Duty

General information

The VAT Act 2013 outlines the legal framework for charging VAT. The standard VAT rate is 16%

The Excise Duty Act 2015 is a modern piece of legislation that governs the application of excise taxes



VAT

(Changes effective 3rd April 2017)

Maize Flour and Bread Zero Rated

- Bread and maize flour are now zero rated. Previously the two were exempted. This will result in a slight reduction in the price of bread and unga
- VAT refunds application by millers and bakers will increase. The refunds process has since been aligned and made more efficient. But its still not adequate

Input for Manufacture of Pesticides Exempted

- Inputs used in the manufacture of pesticides will be exempted effective 3rd April 2017, subject to the approval of the CS for Agriculture

LPG and Cylinders

- Effective 3rd April 2017, the supply of Liquefied Petroleum Gas (LPG) is now exempted, previously they were zero rated
- Taxable goods used in the manufacture of LPG cylinders are now exempted subject to the recommendation of the CS for Energy

VAT

Vehicles for Transportation of Tourists

Locally assembled vehicles, specially designed for transportation of tourists, shall be exempt from VAT, provided they meet the following conditions:

1. They are purchased before customs clearance
 2. The purchase is recommended by the CS for Tourism
 3. The vehicles shall at all times be registered and operated by a company that is licensed under the Tourism Vehicle Regime
 4. The vehicles shall be used exclusively for the transportation of tourists
 5. The vehicles shall have provisions for camping, rescue and first aid equipment, luggage compartments and communication fittings; and
 6. Any other condition the Commissioner may impose
- Provided that tax shall become payable upon change of use or disposal of the vehicle

Revenue Stamps and Documents of Title

- Revenue stamps, bank notes, share certificates and other documents of title are exempted from VAT

VAT

Specialized Hospitals (of 50 Bed Capacity)

- The Finance Act 2016 exempted goods for direct and exclusive use in the construction of specialized hospitals with accommodation facilities provided the same was recommended by CS for health
- Effective 3rd April 2017, the exemption is now expanded to equipment and apparatus but qualified to be only hospitals with a bed capacity of at least 50

Aircraft Spare Parts

- Spare parts imported by aircraft operators or persons engaged in the business of aircraft maintenances are exempted upon recommendation by the Kenya Civil Aviation Authority (KCAA)
- Previously only the direction finding compasses, instruments and appliances for aircraft, aircraft launching gear and parts, deck arrestor or similar gear and parts were exempted, propellers and rotors and parts, under carriages and parts, other parts of aeroplanes and helicopters and other items of tariff 8803

Islamic products and any other Islamic among the financial products exempt from VAT. There is a proposal to include “Sukuk”

VAT

Exemption for REITs and ABS

- Asset transfers and transactions related to transfer of assets into a Real Estate Investment Trusts (REITs) or an Asset Backed Securities (ABS) are exempt from VAT

Goods for Marine and Fisheries Zero rated

- Taxable goods supplied to marine fisheries and fish processors upon recommendation by the Relevant State Department are now zero rated

Supply of services to International and Regional Organizations

- Services, alongside goods, supplied to International and Regional Organizations, with diplomatic accreditation or agreements with the Government of Kenya, are now zero rated

Supply to National Red Cross Society and St John Ambulance

- Services supplied or imported for official use in the provision of relief services are zero rated

VAT

VAT Regulations

➤ Publication of the VAT regulations to support smooth implementation of the VAT Act 2013. The regulations will be aligned to the tax procedures Act, 2015

Withholding VAT (WH VAT)

The following administrative provisions are made to clarify application of WH VAT:

- the due date of paying WH VAT is 14 days after withholding

- To allow the commissioner exempt a person from WH VAT provisions , upon application

- This is meant to address persistent applications for refunds resulting from withheld VAT by taxpayers in consistent credit positions

- Any WH VAT deducted prior to this amendment should be carried forward as a credit in the return to be used to offset future output VAT

Excise Duty

(Changes effective 3rd April 2017)

Inflation Adjustment

➤ KRA will publish new inflation adjusted excise duty rates for all excisable goods with specified rates to be effected from 1 July 2017. Inflation rate was 6.3% in the year 2016

Illuminating Kerosene

➤ The Commissioner shall refund excise duty paid on illuminating kerosene used by persons registered with the Commissioner to manufacture non-excisable goods (e.g. paint & resin)

➤ Aimed at promoting the growth of the local paint and resin industry to match the risen demand for the products in the construction industry

Cigarettes

➤ The rate of excise duty on cigarettes has been reviewed from the single rate of KES 2,500 per mille to a two tier tax structure as shown below;

Description	Rate of Duty (KES/Mille)
Cigarettes with filters	2,500
Cigarettes without filter	1,800

Excise Duty

Liqueur

➤ Excise duty is increased from KES 175 per liter to KES 200 per liter on spirits on indenatured ethyl alcohol, spirit liqueurs and other spirituous beverages of alcoholic strength exceeding 10%

Exemption of Excise Duty for St. John Ambulance

- Alongside Kenya Red Cross, St John Ambulance is now exempted from excise duty on supplies used for official use in the provision of relief supplies in Kenya
- This brings equity in the treatment of Kenya Red Cross and St John Ambulance

Excise Duty

Excisable Goods Management System (EGMS) Regulations 2017

The EGMS regulations have been amended to address the challenges experienced in the implementation of EGMS. The key issues provided under the new EGMS regulations include among others;

- The provision allowing for different stamp fees based on the type of excisable goods
- Return or transfer of excise stamps due to various reasons e.g. stoppage of manufacture, defective stamps, transfer of manufacturing plant etc
- Marking of excisable goods supplied to the National Police Service
- Requirement for a manufacturer, importer, distributor, retailer or any other person involved in the supply chain of excisable goods, to verify and authenticate the stamps and excisable goods before admitting them in their premises
- The new regulations are meant to improve efficiency and tax compliance through management of all excisable goods except motor vehicles

Miscellaneous Amendments

Tax on Gaming, Betting and Lottery Sector

- Tax on betting, lottery, gaming and competition is increased to a standard 50% for all categories rather than the previous 7.5%, 5%, 12% and 15% respectively

Stamp Duty Exemption on Sukuk Arrangement

- Stamp Duty is exempted on Sukuk arrangements subject to conditions

Customs

- Matters relating to customs will be communicated through EAC Gazette and implemented from 1 July 2017

Procurement Reforms

- Regulations and code of Ethics for suppliers of the National and County Governments has been finalized
- Public Procurement and Asset Disposal Regulations, 2017 will soon be gazetted

Miscellaneous Amendments

Financial Sector Reforms

- The Central Bank of Kenya (CBK) aims to stabilize the banking sector by:
 - i. Increasing transparency on shareholding
 - ii. Strengthening banks' corporate governance
 - iii. Ensuring banks adopt effective business model to ensure resilience

- The CBK is set to undertake the following :
 - i. Increase its supervisory staff component
 - i. Working closely with international partners to enhance supervisory staff capacity
 - i. Rolling out onsite risk-based Anti-Money Laundering and Combating Financing of Terrorism (AML/CFT) inspections for commercial banks and micro-finance banks
 - i. Impact of the interest rate capping law, to inform policy options

Miscellaneous Amendments

Miscellaneous Fees and Levies Act

The Act is amended to exempt from export duty and Import declaration fees respectively goods exported to and imported by an enterprise licensed under the SEZ Act. This is meant to;

- Reduce cost of doing business
- Inspire foreign direct investment
- Position Kenya as a premier business hub
- Increase employment opportunities

Other Miscellaneous Incentives

- White maize will be imported on a tax free basis for a period of four months to help alleviate the widespread drought in the country
- Dates will also be imported on a tax free basis in the period of Ramadhan in support of Muslim brothers

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INTERNATIONAL L BDO NETWORK

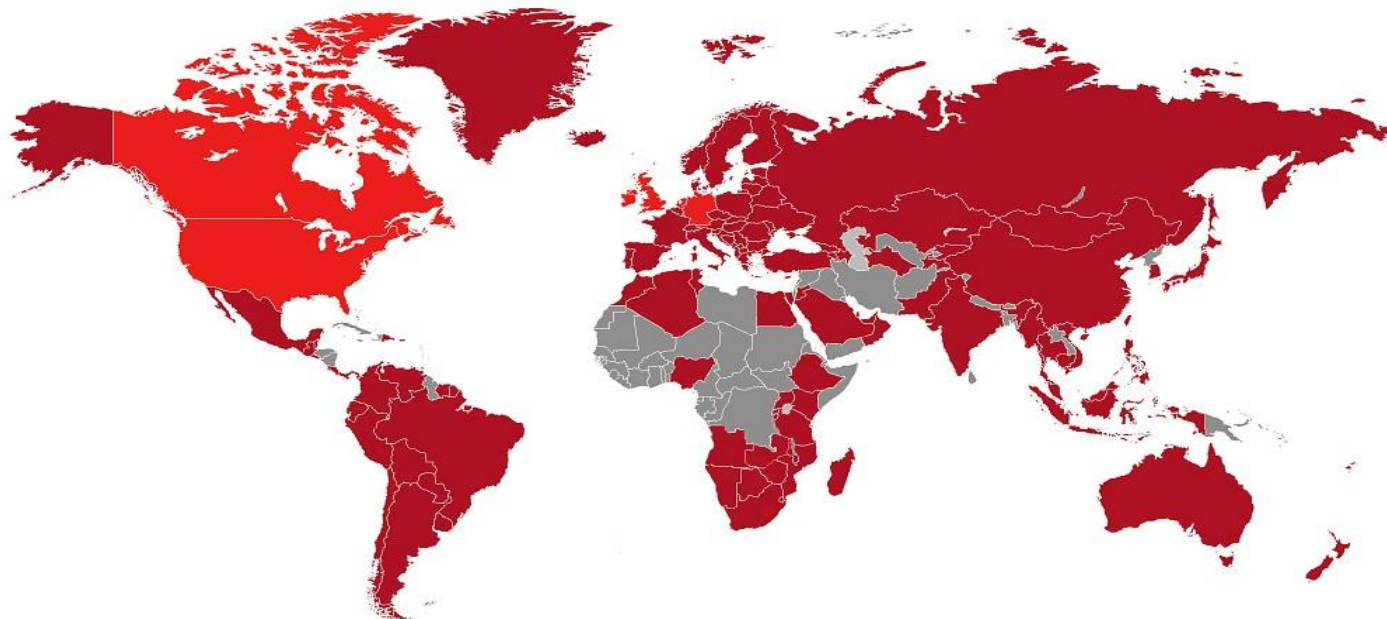
\$7 BILLION

TOTAL REVENUE IN 2015

GLOBAL NETWORK

1963:
GERMANY, NETHERLANDS UK, CANADA & US

201:
154
COUNTRIES



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