



Approved for tabling in the House.




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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION – 2022
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON-

THE FINANCE BILL (NATIONAL ASSEMBLY BILL NO. 22 OF 2022)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 24 MAY 2022	DAY: TUESDAY
TABLED BY:	Hon. GLADYS WATHA - CHAIR FINANCE & NATIONAL PLANNING
CLERK-AT-THE-TABLE:	AIDA MUSAIBU

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

MAY 2022



3.63 OKOA UCHUMI COALITION

In a meeting with the Committee held on Thursday, 12th May 2022, the Coalition proposed the following amendments to the Finance Bill, 2022:

Clause 9

426. Amend by deleting paragraph 1A(c) or inserting the words “the person has incurred investment in a special economic zone and met the requirements under paragraph 1A and 1B”. an exhaustive list of businesses which due to their nature would not be carried out in Nairobi and Mombasa counties should be provided to prevent legal uncertainty on the nature of business that would be entitled to these investment deductions.

Committee Recommendation

This proposal was rejected by the Committee. This would have denied the Government tax revenue stream.

Clause 11

427. Amend by introducing provisions that will make parties who are transacting with each other through a joint venture subject to transfer pricing rules.

Committee Recommendation

This proposal was rejected by the Committee. This would have denied the Government tax revenue stream.

Clause 12

428. Amend by reducing the threshold from gross turnover of KSh. 95 billion to a much lower threshold. Though the KSh. 95 billion is in line with the OECD standards, it is argued that the threshold should be much lower so as to capture more multinational enterprises that operate in Kenya and to ensure that more multinational enterprises are subject to country by country reporting requirements.

Committee Recommendation

This proposal was rejected by the Committee. This would have denied the Government tax revenue stream.

429. Amend the clause to read as follows: "18B. The provisions of sections 18C, 18D, 18E and 18F shall apply to returns for the year of income 2022 and subsequent years of income".

Committee Observation/Recommendation

Their proposal is a clean-up and it was therefore adopted by the Committee.

Clause 15

430. Amend the Eighth Schedule to the ITA to include provision for an indexation allowance. While the increase in CGT is a welcome move, taxpayers will unduly suffer where no indexation allowance is provided for to consider the rate of inflation.

Committee Observation/Recommendation

Provision for indexation for inflation adjustment requires further stakeholder engagement. The Committee noted their concerns and reduced the rate of CGT from 15% to 10%.

Clause 28

431. Delete the clause because VAT exemption of goods under paragraph 63 covered the construction of taxable goods for the direct and exclusive use in the construction and equipping of specialized hospitals with a minimum bed capacity of fifty.

Committee Observation/Recommendation

The Committee observed that this amendment is a contradiction to the Government's 'Big Four Agenda' and recommends its deletion.

Clause 30

432. Delete the proposed paragraphs 32(2) and 32(5) because it will significantly affect cash flows of the businesses.

Committee Observation/Recommendation

The Committee observed that the requirement to deposit 50% of the disputed amount before filing an appeal in the High Court will reduce working capital for businesses and also deny justice to taxpayers where they are unable to raise the amount. The Committee therefore recommends that the clause be deleted.

Amendment of section 10 of the Act

433. Parameters that will be used to exempt certain products from inflation adjustment review by the Commissioner should be explained.

Committee Observation/Recommendation

The Committee observed that the provision may be abused and recommends its deletion.

Clause 34

434. Amend by either deleting paragraph 34(b) (viii) of increasing the excise rate. This is because tobacco products are harmful to the health of consumers.

Committee's Recommendation

Their proposal was rejected by the Committee. Tobacco products are harmful to human health and should be discouraged with higher taxes.

435. The proposal to increase excise duty on imported motorcycles should be deleted because the local supply may not meet the demand hence increase the cost of motorcycles.

Committee Observation/Recommendation

This amendment will increase the price of motorcycles which is a source of employment for many Kenyans. The Committee recommends that the clause be deleted.

436. Delete the proposal to increase excise duty on glass bottles because making locally manufactured glass bottles excisable will reduce their competitive advantage.

Committee Recommendation

The Committee adopted their proposal and deleted the amendment. This will allow locally manufactured glass to be cheaper than imported glass.

437. The excise rate for cigarettes with filters (hinge lid and soft cap) and cigarettes without filters (plain cigarettes) should be amended to include both categories of cigarettes under one uniform specific tax rate set at the higher of the two options. This is to enhance effectiveness of tax administration since it is a more simplified tax system.

Committee Recommendation

This proposal was rejected by the Committee. Nicotine is harmful to the human health and should be discouraged.

Clause 41

438. Delete because the amendment creates uncertainty for taxpayers.

Committee Recommendation

This proposal was rejected by the Committee. It would have denied government a tax revenue stream.

Clause 44

439. Delete the clause because export levies are required to encourage domestic production of goods that are subject to the levy by making it cheaper to supply to domestic manufacturers.

Committee Recommendation

The Committee adopted their proposal as it will encourage domestic manufacturing of goods.

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440. Zero-rate supply of maize flour, wheat, meslin and cassava flour because the proposal in the Bill will lead to the price of the commodities.

Committee Observation/Recommendation

Imposing VAT on the commodities will increase their prices. The Committee adopted their proposal and deleted the amendment.