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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FOURTH SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

....

REPORT ON THE CONSIDERATION OF THE TAX LAWS (AMENDMENT) BILL, 2020

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DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
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CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings on the consideration of the Tax Laws (Amendment) Bill (National Assembly Bills No. 8 of 2020) which was published on **30th March, 2020.** Due to the urgency of the Bill and the prevailing emergency occasioned by the coronavirus pandemic, the Bill was committed to the Departmental Committee on Finance and National Planning and submitted for public participation through newspaper adverts on 1st April, 2020 and 6th April, 2020 before it was read a First Time. This was to enable the Committee to receive public views and consider them ahead of the First Reading. The above scenario was allowed by the Speaker pursuant to Standing Order 1 of the National Assembly.

Since the first COVID-19 case was reported in the country on Friday, 13th March, 2020 by the Cabinet Secretary of Health, Hon. Mutahi Kagwe, a lot of precautionary measures have been put in place by the Government. Most of the measures employed to protect the citizenry against contraction of the virus have had a negative effect on businesses and the economy of the country at large leading to lay-offs, salary cuts, unpaid leaves and closure of some businesses. This necessitated the Executive to come up with legislative proposals that will make goods and services affordable and also enable Kenyans to have more money to spend on their basic needs during the harsh economic times. The legislative proposals birthed the Tax Laws (Amendment) Bill, 2020 which proposes to amend the following tax laws:-

1. **the Income Tax Act (Cap. 470)**: the Bill seeks to amend the Act to reduce the individual top tax rate and resident corporate tax rate in order to increase disposable income for individuals in order to enhance consumption and enhance investments for companies;
2. **the Value Added Tax Act No. 35 of 2013 (No. 35 of 2013)**: the Bill seeks to amend the Act to align the incentives contained in the Bill with the best practice;
3. **the Excise Duty Act No. 23 of 2015**: the Bill proposes to amend the Act to enhance equity and fairness in taxation of excisable goods;
4. **the Tax Procedures Act, 2015 (No. 29 of 2015)**: The Bill seeks to amend the Act in order to streamline the administration of the tax laws;
5. **the Miscellaneous Fees and Levies Act, 2016 (No. 29 of 2016)**: the Bill seeks to amend the Act in order to enhance equity and fairness in the imposition of miscellaneous fees and levies; and
6. **the Kenya Revenue Authority Act, 1995 (No. 2 of 1995)**: the Bill seeks to amend the Act in order to enhance the capacity of KRA.

Following the request for memoranda from members of the public through placement of adverts in the print media on Wednesday, 1st April, 2020 and Wednesday, 8th April, 2020 and through letters Ref.NA/DCS/F&NP/2020/19 and Ref.NA/DCS/F&NP/2020/20 dated 1st April, 2020 to stakeholders requesting for their comments on the Bill, the Committee received memoranda from seventy two (72) stakeholders. The Committee put all the stakeholders' comments into consideration while preparing the proposed Committee's amendments and some of the proposals were adopted forming part of the proposed Committee's amendments.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Tax Laws (Amendment) Bill (N.A. Bills No. 8 of 2020).

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the National Treasury for their participation in scrutinizing the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Tax Laws (Amendment) Bill (N.A. Bills No. 8 of 2020) and have the honour to report back to the National Assembly with the recommendation that the Bill should be **approved with amendments**.

Hon. Joseph Limo, M.P.
Chairperson, Departmental Committee on Finance and National Planning

2. PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under ***Standing Order 216*** whose mandates pursuant to the ***Standing Order 216 (5)*** are as follows:
    a. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
    b. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
    c. **To study and review all the legislation referred to it;**
    d. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
    e. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
    f. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
    g. To examine treaties, agreements and conventions;
    h. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
    i. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
    j. To examine any questions raised by Members on a matter within its mandate.

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.

3. In executing its mandate, the Committee oversees the following Government Ministries and Departments;
    a. The National Treasury and Planning
    b. Ministry of Devolution and ASALs
    c. The Commission on Revenue Allocation (CRA)
    d. Office of the Controller of Budget
    e. Salaries and Remuneration Commission (SRC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members:-

Chairperson
Hon. Joseph K. Limo, MP
MP for Kipkelion East Constituency
Jubilee Party

Vice-Chairperson
Hon. Isaac W. Ndirangu
M.P for Roysambu Constituency
Jubilee Party

Members

Hon. Jimmy O. Angwenyi, MP
MP for Kitutu Chache North Constituency
Jubilee Party

Hon. Christopher Omulele, MP
MP for Luanda Constituency
ODM Party

Hon. Dr. Enoch Kibunguchy, MP
MP for Likuyani Constituency
FORD-K

Hon. Shakeel Shabbir Ahmed, MP
MP for Kisumu Town East
Independent Member

Hon. Abdul Rahim Dawood, MP
MP for North Imenti Constituency
Jubilee Party

Hon. Daniel E. Nanok, MP
MP for Turkana West Constituency
Jubilee Party

Hon. Andrew A. Okuome, MP
MP for Karachuonyo Constituency
ODM Party

Hon. David M. Mboni, MP
MP for Kitui Rural Constituency
CCU Party

Hon. Francis K. Kimani, MP
M.P. Molo Constituency
Jubilee Party

Hon. Joseph M. Oyula, MP
MP for Butula Constituency
ODM Party

Hon. Joshua C. Kandie, MP
MP for Baringo Central Constituency
MCC Party

The Hon. Lydia H. Mizighi, MP
MP for Taita Taveta County
Jubilee Party

Hon. Mohamed A. Mohamed, MP
MP for Nyali Constituency
Independent Member

Hon. Purity W. Ngirici, MP
MP for Kirinyaga County
Jubilee Party

Hon. Samuel Atandi, MP
MP for Alego Usonga Constituency
ODM Party

Hon. Stanley M. Muthama, MP
MP for Lamu West Constituency
MCC Party

The Hon. Edith Nyenze, MP
MP for Kitui West Constituency
WDM-K

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Members of the Secretariat:-

Head of the Secretariat

Ms. Leah W. Mwaura

Senior Clerk Assistant

Ms. Jennifer Ndeto
Principal Legal Counsel I

Ms. Laureen Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Fiscal Analyst I

Mr. Chelang'a Maiyo
Research Officer II

Mr. John Njoro
Serjeant-At-Arms

Ms. Euridice Nzioka
Audio Officer

2 OVERVIEW OF THE TAX LAWS (AMENDMENT) BILL, 2020

2.1 ANALYSIS OF THE BILL

The Tax Laws (Amendment) Bill, 2020 seeks to amend the following tax laws:-

2.1.1 The Income Tax Act (Cap. 470)

The proposed amendments in the Income Tax Act have been categorized mainly into five. They are as follows:-

6. Turnover Tax (ToT) has been proposed, first, to be reduced from the current 3% to 1% of the annual turnover from businesses. Secondly, the current threshold of turnover of less than KSh. 5 million has been replaced with a new threshold, which is, turnover between KSh. 500,000 to KSh. 15 million. Thirdly, the presumptive tax of 15% of the amount of trade license or business permit that currently exists so as to facilitate the enforcement of the Turnover Tax through county governments has been removed. Finally, the requirement to exclude incorporated companies from this tax has been proposed to be removed. This implies that Turnover Tax of 1% of businesses with annual turnover of between KSh. 500,000 to KSh. 15 million will apply.
7. Reforms have been introduced in the Pay-As-You-Earn (PAYE) by; firstly, the personal relief has been enhanced by around KSh. 992 per month, from the current KSh. 1,408 to KSh. 2,400. Secondly, persons earning below KSh. 24,000 have been exempted from paying PAYE. Third, the PAYE as well as pension taxation bands have been reduced from 5 to 4.
8. Various allowable deductions of tax as well as exempted income have been proposed to be removed. The allowable deductions are such as; capital expenditure incurred for the construction of public schools, hospitals, roads and similar social infrastructure, club subscription by employers on behalf of employees, capital expenditure by a person on issuance of shares or debentures among others. Some of the hitherto, exempt income include; disturbance allowance for public servants, per diems for foreign travel for public servants, dividends accruing from Special Economic Zones enterprises, interest from infrastructure as well as green bonds among others. The Bill also removes old, antiquated provisions dating back into 1960s and 1970s which are no longer applicable today.
9. The investment deduction (ID) regime has been overhauled and replaced with a modern and progressive one. It is worth noting that the current regime seems to contain a myriad of deductions some of which may not have been well targeted. It is believed that this is one of the single-most source of revenue loss associated with poor performance of corporation income tax since investors are allowed to deduct their capital expenses from taxable income up to 100% (and in some cases exceeding 150% in recent amendments to the income tax). It takes quite a very long time before all the investment expenditure is recouped for a firm to start paying taxes. The proposed investment deductions are in four categories, that is: construction of buildings, installation of machinery, installation of fiber optic cable and farm works. The deduction range from the highest of 50% down to the lowest at 10%. It is anticipated that this measure, together with others, will modernize the Income Tax Act and occasion substantial revenue yield.
10. **Additional taxation measures on non-residents**:- the first one is the enhancement of the non-resident dividend from the current 10% to 15%. The second one is the introduction of the withholding tax of 20% for non-residents on gross income from sales promotion, marketing, advertising and transportation excluding air transport.

2.1.2 Value Added Tax Act, 2013 (No. 35 of 2013)

11. The Bill proposes to amend the Act to align the incentives contained in the Bill with the best practice by providing for the definition of ordinary bread which means bread containing only wheat flour, sugar, salt, yeast, fat or oil, bread improver, preservatives and water. The Bill also seeks to amend the rate of value added tax to include excise duty, fees and other charges. Currently, the Act excludes excise duty, fees and other charges from the taxable value of those goods.
12. The Bill also seeks to amend the provision on issuance of credit notes where goods are returned to the registered person or, for good and valid reason the registered person decides for business reasons, to reduce the value of a supply after the issue of a tax invoice to provide that in instances where there is a court dispute as regards the price payable for such goods the credit note shall be issued within thirty days of the determination of that dispute. The Bill further seeks to reduce the timeline for application for a tax refund on bad debts from the Commissioner General, Kenya Revenue Authority from five to four years from the expiry of the date of the supply of goods without receipt of payment.
13. In addition, the Bill seeks to amend the Act to make it mandatory for all persons and not just registered persons to keep in the course of their business, a full and true written record, whether in electronic form or otherwise, in English or Kiswahili of every transaction they make for a period of five years. It also deletes certain categories of goods from the tax exempt list as enumerated in the First Schedule including fertilizers, taxable supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in the construction of a power generating plant, by a company, to supply electricity to the national grid, taxable supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration, by a company granted prospecting or exploration license in accordance with Geothermal Resources Act (No. 12 of 1982), production sharing contracts in accordance with the provisions of Petroleum (Exploration and Production) Act (Cap. 308) or mining license in accordance with the Mining Act (Cap. 306) and taxable supplies, procured locally or imported for the construction of liquefied petroleum gas storage facilities with a minimum capital investment of four billion shillings and a minimum storage capacity of fifteen thousand metric tonnes.
14. The Bill also deletes from the list Made-up fishing nets of man-made textile material, Mosquito nets, materials, waste, residues and by-products, whether or not in the form of pellets and preparations of a kind used in animal feeding, specialized equipment for the development and generation of solar and wind energy, including deep cycle batteries which use or store solar power, Tractors other than road tractors for semitrailers and tractors other than road tractors for semitrailers among others. The Bill further seeks to delete certain medicaments from the zero-rate list to the tax exemption list. This includes vaccines for human medicine, veterinary medicine, medicaments containing penicillin, antibiotics, hormones, infusion solutions among others.
15. Finally, the Bill deletes certain goods from the zero-rated tax list in the Second Schedule to the Act. These include supply of liquefied petroleum gas including propane, supply of ordinary bread, milk and cream, not concentrated nor containing added sugar or other sweetening matter, all inputs and raw materials whether produced locally or imported,

supplied to manufacturers of agricultural pest control products, inputs or raw materials for electric accumulators and separators including lead battery separator rolls whether or not rectangular or square supplied to manufacturers of automotive and solar batteries in Kenya and agricultural pest control products.

2.1.3 Excise Duty Act, 2015 (No. 23 of 2015)

16. The Bill proposes to amend the Act to enhance equity and fairness in taxation of excisable goods by revising the description of certain goods listed in the First Schedule enumerating the rates of excise duty excisable on such goods. This includes deletion of the word "imported" from the description of "sugar confectionery" and "white chocolate, chocolate in blacs, slabs or bars" in their respective tariff headings.
17. It also amends the definition of "other fees" as provided in the schedule to mean any fees, charges or commissions charged by financial institutions relating to their licensed financial activities. It further seeks to delete certain goods from exemption from excise duty when purchased before clearance through Customs or removal from excise control, this includes goods used for direct and exclusive use in the implementation of projects under special operating framework arrangements with the Government and personal motor vehicle imported by a public officer returning from a posting in a Kenyan mission abroad.

2.1.4 Tax Procedures Act, 2015 (No. 29 of 2015)

18. The Bill seeks to amend the Act in order to streamline the administration of the tax laws by enabling the Commissioner General of KRA to appoint persons registered under the Banking Act to act as agents via agreement for purposes of revenue collection. Such agents are required to transfer funds to designated Central Bank accounts within two days of collection and are liable to a penalty of two percent of revenue collected for delays in remittance of such collections.
19. The Bill further deletes the requirement for publication of private rulings and the forty-five days' timeline set for delivery of private rulings by the Commissioner on questions on interpretation of a tax law in relation to a transaction entered into or proposed to be entered into by a taxpayer. The Bill further reduces the penalty for the late submission of turnover tax from five thousand shillings to one thousand shillings.

2.1.5 Miscellaneous Fees and Levies Act, 2016 (No. 29 of 2016)

20. The Bill seeks to amend the Act in order to enhance equity and fairness in the imposition of miscellaneous fees and levies by cleaning up the contradictions on the provision on payment of import declaration fee for raw materials and intermediate products imported by approved manufacturers. The Bill further seeks to introduce in the Act, processing fees for all motor vehicles excluding motorcycles imported or purchased duty free. The Bill also deletes certain categories of goods from the list of goods exempt from import declaration fee and railway development levy when imported or purchased before clearance through customs and further enable the Cabinet Secretary to include in the list certain items on the basis of public interest.

2.1.6 Kenya Revenue Authority Act, 1995 (No. 2 of 1995)

21. The Bill seeks to amend the Act in order to enhance the capacity of KRA by providing for the reward to paid be to persons who give information resulting in the enforcement of tax laws. Presently the Act only specifies the reward to be paid to a person for providing information leading to identification and recovery of unassessed duties or taxes. This amendment will provide the reward for all other information that may assist in enforcement of tax collection.

2.2 CONSIDERATION OF THE BILL

22. The Bill is an omnibus Bill proposing amendments to various tax laws. The Bill was considered in a manner different from how other Bills are usually considered. This was due to the exigencies of time and the prevailing emergency due to the presence of the novel corona virus in the country. To this end, the Speaker invoked his power under Standing Order 1 of the National Assembly allowing the Bill to be committed to the Departmental Committee on Finance and National Planning after publication contrary to the normal practice where a Bill is committed to a Committee after the First Reading pursuant to Standing Order 127. This was to enable the Committee to facilitate public participation and to make it possible for any amendments made by the Committee to be contained in the Order Paper of the sitting of the House convened to consider the Bill.

23. In considering the Bill, the Committee held a total of nine (9) sittings in which all the memoranda from stakeholders were reviewed and since the Bill fell within the meaning of a money Bill, the Committee proceeded with the consideration of the Bill having taken into account the views of the Cabinet Secretary for National Treasury, in line with the provisions of Article 114 of the Constitution.

3 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

24. Following the call for memoranda from the public through the placement of adverts in the print media on **Wednesday, 1st April, 2020** and **Wednesday, 8th April, 2020**. The Committee also undertook stakeholder mapping where a number of stakeholders were requested through letters Ref: NA/DCS/F&NP/2020/19 and Ref: NA/DCS/F&NP/2020/20 dated 1st April, 2020 to submit their views on the Bill. The Committee received memoranda from the following stakeholders:-
    i. Bakery, Confectionery, Food Manufacturing and Allied Workers' Union (Kenya)
    ii. Agrochemicals Association of Kenya
    iii. Helicopter Pilots Association of Kenya
    iv. Kenya Association of Air Operators
    v. Mr. Njoroge Waweru
    vi. Bima Intermediaries Association of Kenya (BIAK)
    vii. Mr. Peter Kimani Runo
    viii. Broadway Bakery Limited
    ix. Hon. Abdulswamad Shariff Nassir, MP
    x. Kenya Healthcare Federation (KHF)
    xi. Mr. Innocent Moturi Nyandika
    xii. Mafuko Industries Limited
    xiii. Modern Ways
    xiv. Mini Bakeries (Nairobi) Limited
    xv. Cereal Millers Association (CMA)
    xvi. The Agricultural Society of Kenya (ASK)
    xvii. Ernest and Martin Associates
    xviii. Westminister Consulting
    xix. Kipkenda and Co. Advocates
    xx. Zamara
    xxi. Kenya Bakers Association (KBA)
    xxii. Kenya Private Sector Alliance (KEPSA)
    xxiii. The Nairobi Securities Exchange (NSE), Kenya Association of Stockbrokers and Investment Banks (KASIB), the Fund Managers Association (FMA) and the Association of Collective Investment Schemes (ACIS)
    xxiv. Institute of Certified Public Accountants of Kenya (ICPAK)
    xxv. Oxygene
    xxvi. Ashford Consultants
    xxvii. Energy Dealers Association
    xxviii. Ministry of Foreign Affairs
    xxix. Sunblest
    xxx. Kenya Electricity Generating Company (KENGEN)
    xxxi. Fertilizer Association of Kenya (FAK)
    xxxii. Tax Ark Consulting Limited
    xxxiii. Society of Crop Agribusiness Advisors of Kenya (SOCAA)
    xxxiv. Mr. Darius Mwachala
    xxxv. CPA Robert Gathogo Kamwara
    xxxvi. Israel Chemical Limited (ICL)
    xxxvii. Sunworld Safaris
    xxxviii. National Taxpayers Association

xxxix. Mr. Robert Kilimo
xl. Kenya Airways (KQ)
xli. Lawyers Hub
xlii. Dantons Hamilton Harrison and Mathews
xliii. Mr. Charles Kamau
xliv. BDO
xlv. Association of Insurance Brokers
xlvi. Clarity Consulting Limited
xlvii. Institute of Surveyors of Kenya (ISK)
xlviii. Law Society of Kenya (LSK)
xlix. Kenya Tea Development Authority (KTDA)
l. Federation of Kenya Pharmaceutical Manufacturers (FKPM)
li. Institute of Public Finance (IPF Kenya)
lii. Capital Markets Authority (CMA)
liii. Clean Cooking Association of Kenya
liv. Ms. Lydia Da Costa
lv. Kenya Union of Savings and Credit Co-operatives Limited (KUSCCO)
lvi. PricewaterhouseCoopers Limited (PWC)
lvii. PKF Taxation Service Limited
lviii. Anjarwalla and Khanna LLP
lix. KPMG Advisory Services Limited
lx. Kenya Association of Manufacturers (KAM)
lxi. Viva Africa Consulting LLP
lxii. Ernst and Young LLP
lxiii. Glass Users
lxiv. Kenya Tea Growers Association (KTGA)
lxv. Association of Kenya Feed Manufacturers (AKEFEMA)
lxvi. Consumers Federation of Kenya (COFEK)
lxvii. Route to Food Initiative
lxviii. Kenya Association of Pharmaceutical Industry (KAPI)
lxix. Ministry of Energy
lxx. Scope Markets Limited (SCM)
lxxi. Kenya Revenue Authority
lxxii. National Treasury

The stakeholders submitted as follows:-

3.1 BAKERY, CONFECTIONERY, FOOD MANUFACTURING AND ALLIED WORKERS' UNION (KENYA)

25. In their letter Ref: BACOFOMAWU(K)/GC/CAN/1/2020 dated 6th April, 2020, the Union objected to the deletion of ordinary bread from the list of zero-rated items. They stated that by the removal, this will lead in increase in the price of ordinary bread as the manufacturers will not claim input VAT hence passing the cost to the consumer.

Committee's Comments: The Committee agreed with the views of the union and resolved to maintain the status quo where ordinary bread will remain as a zero rated item. The proposed amendment in the Bill was therefore deleted.

3.2 AGROCHEMICALS ASSOCIATION OF KENYA (AAK)

26. In their letter Ref: AAK/CAN.VOL 1/2020 dated 6th April, 2020, the Association was opposed to the removal of agricultural pest control products, raw materials for manufacture of pest control products, veterinary vaccines, medicaments and infusion solutions from the list of zero rated items. They stated that the zero rating of these items has enabled farmers to access inputs affordably so as to grow food crops and the necessary requirements for animal production all geared towards achieving food security and nutrition.

    Committee's Comments: The Committee agreed with the concerns raised by AAK and resolved to retain the items under the zero rating schedule. The proposed amendment in the Bill was therefore deleted.

3.3 HELICOPTER PILOTS ASSOCIATION OF KENYA

27. In their letter dated 6th April, 2020, they opposed the imposition of VAT on imports of aircraft parts because most aircraft are involved in complimenting other government service providers that are involved in disaster mitigation and preparedness and they are therefore not profit making ventures. As such, introduction of VAT will make the spare parts expensive and hence the transport people and goods not for profit and introduction of tax on parts therefore means that the industry will suffer immensely.

    Committee's Comments : The Committee noted that due to the corona virus epidemic most the aviation industry has really been affected with most aircrafts grounded. It was observed that to bring them back into operations will be very costly due to the need to have parts replaced. As such , introduction of VAT will be too detrimental at this point. The amendment proposing to make the aircrafts spare parts vatable was therefore deleted.

3.4 KENYA ASSOCIATION OF AIR OPERATORS

28. In their letter Ref: KAAO/ADMIN dated 6th April, 2020, the Association proposed the following amendments:-
    i. Amend section 34(2)(o) of the Income Tax Act by deleting the word 'aircraft' and replacing with the word, 'aviation insurance'. This is because airlines have one cover for all aviation requirements and given the cost of aircrafts, Kenya does not have capacity to offer the products;
    ii. Delete the amendment proposed to paragraph 39(3) of the Value added Tax Act because Kenya has no capacity to manufacture aircraft spare parts, introduction of VAT will add a huge strain to the already ailing aviation industry and increase the cost of operation, training out of Kenya will result to flight of forex and aircraft spare parts are exempted from VAT in most jurisdictions the additional cost will therefore make Kenya aviation industry uncompetitive.
    iii. Amend Part A and B of the Second Schedule of the Miscellaneous Fees and Levies Act to exempt aircraft engines, aircraft spare parts and jet A1 fuel from Import Declaration Fees and Railway Development Levy. This is to protect cash flows as a result of reduced revenue due to travel restrictions, payment of RDL and IDF will increase operation costs and to protect loss of maintenance, repair, operations to Middle East carries and Ethiopian airlines leading to brain drain.

iv. Amend tariff 2710.19.21 of the Excise Duty Act by deleting 'Kes. 5755.00'. This is because exempting Jet A1 fuel from excise duty will reduce the cost of travel hence positioning Kenya as an attractive and preferred tourist destination.

Committee's Comments: The Committee supported the proposal to amend section 34 (o) of the Income Tax Act, deletion of the proposed paragraph 39(3) of the VAT Act to ensure aircrafts spare parts continue enjoying VAT free regime. In addition, the Committee agreed with the proposal to amend Part A and B of the Second Schedule of the Miscellaneous Fees and Levies Act in order to continue exempting aircraft engines, aircraft spare parts and jet A1 fuel from Import Declaration Fees and Railway Development Levy. The aforementioned are meant to support the aviation which continue to suffer great losses following the COVID – 19 outbreak.

3.5 MR. NJOROGE WAWERU

29. Mr. Waweru proposed that:-
    i. VAT on fuel should be removed in order to compensate for the new rules to curb the spread of coronavirus in public service vehicles where they now have to carry few passengers to achieve social distancing;
    ii. Bottled water should be zero rated because it is the only guaranteed safe water for drink;
    iii. Maize imports should be zero-rated because local maize is contaminated with aflatoxins due to poor post-harvest storage and hence the need to import for human consumption ; and
    iv. Medical equipment and medicine imported to the country should be zero-rated. If this is not possible, medicines meant to treat people suffering from diseases that increase the risk of people dying from coronavirus should be zero-rated. He further proposed that the crippling bureaucratic customs procedure-certificate of conformity from medicine and medical equipment should be removed.

Committee's Comments: The Committee did not agree with the removal of VAT on fuel as proposed as doing so will greatly erode the revenues anticipated to support the Government in fight against corona virus. The Committee noted that VAT on fuel enjoys a lower tax rate of eight per centum while the standard rate is fourteen per centum. On the supply of imported maize, the Committee observed that the item enjoys VAT exemption and zero rating ought to be limited to few items to avoid incurring high tax expenditure. However, on zero rating of_Medical equipment and medicine imported to the country, the Committee resolved to continue zero rating of medicaments to as introducing VAT on medicaments will hamper the fight on COVID -19 noting most of the medicaments are imported. The Committee further observed post corona discussions to review all the items under the zero rate to ensure tax expenditure is minimal.

3.6 BIMA INTERMEDIARIES ASSOCIATION OF KENYA (BIAK)

30. The Bill has proposed to introduce VAT at fourteen per centum on insurance agency, insurance brokerage , stock exchange brokerage. BIAK was opposed to the move stating that it will affect the commissions paid out to them and this would amount to double taxation by subjecting them to both withholding tax (WHT) and VAT. As such, the introduction of VAT will have many disadvantages to the insurance sector and to the economy in general.

Committee's Comments: The Committee noted that the initial intention to exempt the service was to grow the insurance sector. The sector has come of age and hence the VAT exemption should be removed so that the sector can support in the growth of the much needed Government revenue.

3.7 MR. PETER KIMANI RUNO

31. In his letter dated 1st April, 2020, proposed that the National Assembly should set up a fund for monthly cash transfer of KSh. 21,000 to all houses affected by curfew due to the pandemic and KSh. 6000 to all single youth that are independent, in the informal sector and are affected by the curfew, the National Assembly should suspend the launch of any new projects that are not related to the pandemic and the National Assembly should come up with well-defined mechanism and specific model to channel cash to the informal sector in an accountable manner.

Committee's Comments: The Committee observed that the matter can be addressed during the budget making process.

3.8 BROADWAY BAKERY LIMITED

32. In their letter dated 3rd April, 2020, the Company objected the introduction of VAT on ordinary bread.

Committee's Comments: The Committee agreed with the comments noting that bread is an essential commodity in many households and hence the imposition of VAT on the commodity would lead to an increase in the cost of bread and many households will be negatively affected.

3.9 HON. ABDULSWAMAD SHARIFF NASSIR, MP

33. In his letter Ref:NA/PIC/CHAIR/007/2020 dated 5th April, 2020, Hon. Nassir made further proposals which will spur economic stimulus from grassroot level and ensure that the economy is supported for immediate growth. He proposed that the government should give a relief to businesses by suspending remittance of PAYE for at least three months because suspension of the tax will ensure that companies do not lay-off staff as they will have money to pay salaries. In addition, the Government should take up the responsibility of settling electricity bills for households of up to KSh. 5000 for a period of three months in order to offer relief to Kenyans during this period. Further, a fiscal stimulus package should be adopted for all businesses and special stimulus for business sectors likely to be severely affected by the COVID-19 crisis. Finally, he stated that VAT should be suspended on all products and services for a period of three months and if this cannot be accommodated within the current fiscal space then the timelines for remittance of taxes should be extended. This will go a long way in ensuring that citizens are able to spend and get goods with the little money that they have left. He proposed the following amendments to the Bill:-

3.9.1 Income Tax Act

a. Amend s.6A by inserting the following new sub-section immediately after sub-section (1), "*(1A) A person shall not be eligible to pay residential rental income tax under sub-section (1), where the person waives the collection of rent for a period of three months from the date of the enactment of this Act*".
b. Amend s.37 by inserting the following new sub-section immediately after sub-section (1), "*(1A) Despite sub-section (1), an employer shall not be required to*

deduct tax from the emoluments of an employee for a period of three months from the date of the enactment of this Act".

c. Amend paragraph 16, Part I of the First Schedule by inserting the following paragraph immediately after paragraph 16, "*16A. Income from residential rental income for a period of three months from the date of enactment of this Act*".
d. Amend paragraph 25, Part I of the First Schedule by inserting the following new paragraph, "*25A. The emoluments of an employee in the public service or private sector for a period of three months from the date of the enactment of this Act*".

3.9.2 Value Added Tax Act

Amend section 5 by inserting the following new sub-section immediately after sub-section (1), "*(1A) The tax payable under subsection (1) shall not be chargeable for a period of three months from the date of the enactment of this Act*".

3.9.3 Miscellaneous Fees and Levies Act

Amend Part I of the Second Schedule by inserting the following new sub-paragraphs immediately after sub-paragraph (xx), "*(xxa) goods destined for combating the COVID-19 pandemic*" and "*(xxb) raw materials for the manufacture of goods used to combat the COVID-19 pandemic*".

Committee's Comments: The Committee noted that the proposals by Hon. Member were not sustainable and would lead to starvation of government from the much needed revenue to support the ongoing corona virus epidemic.

3.10 KENYA HEALTHCARE FEDERATION

34. In their letter dated 6th April, 2020, the Federation was opposed to the proposed amendment to section 13 of the Value Added Tax and stated that medicaments including vaccines for human medicine, veterinary medicine, medicaments containing penicillin, antibiotics, hormones, infusion solutions among others should continue being zero rated. They also proposed that medical devices should be zero-rated. This is because these products are essential in Universal Health Coverage and overall healthcare delivery.

Committee's Comments: The Committee agreed with the proposal on the need to continue zero rating of medicaments. However, on the additional proposal to zero rate medical devices, the Committee noted that this can be looked in future discussions to examine the impact.

3.11 MR. INNOCENT MOTURI NYANDIKA

35. In his letter dated 6th April, 2020, Mr. Nyandika proposed that section 15(3)(b) of the Income Tax Act be amended by deleting the words 'first four' appearing before the words 'financial institutions' and replacing with the words 'all'. This will ensure that members and staff of all financial institutions under the Fourth Schedule who get mortgages from those institutions also enjoy the mortgage relief.

Committee's Comments: The Committee noted that employees of the financial institutions under the Fourth Schedule enjoy lower than market rate interest rate on mortgages hence this is sufficient relief to them.

3.12 MAFUKO INDUSTRIES LIMITED

36. In their letter dated 4th April, 2020, they requested the Committee to keep bread and associated inputs as zero-rated to ensure affordability of the commodity.
    Committee's Comments: The Committee agreed with the comments noting that bread is an essential commodity in many households and hence the imposition of VAT on the commodity would lead to an increase in the cost of bread and many households will be negatively affected.

3.13 MODERN WAYS

37. In their letter dated 6th April, 2020, they opposed the deletion of paragraph 43 of the VAT Act as it will lead to an increase in the price of animal feeds and fodder.
    Committee's Comments: The Committee agreed to retain the items listed in paragraph 43 at zero rate. The removal from zero rate would lead to increase in animal feeds and the same would be passed on to consumers making animal products such as milk and meat expensive.

3.14 MINI BAKERIES (NAIROBI) LIMITED

38. In their letter Ref: MBNL/Adm/NATP/April 2020 dated 2nd April, 2020, the Company was opposed to the amendment proposing that VAT should be charged on ordinary bread stating that charging VAT on bread will increase the price of bread leading to less sales hence less production. Resultantly, there will be job cuts which may increase criminal activities, reduced revenue due to lost sales and business losses for operating under capacity and idle space/machine time.

    Committee's Comments: The Committee agreed with the comments noting that bread is an essential commodity in many households and hence the imposition of VAT on the commodity would lead to an increase in the cost of bread and many households will be negatively affected.

3.15 CEREAL MILLERS ASSOCIATION (CMA)

39. In a letter dated 2nd April, 2020, the Association noted that because of the economic challenges that the country is facing due to the COVID-19 pandemic that has resulted to the increase in prices of raw materials in the world market and currency fluctuations, the price of maize and wheat flour had gone up. To this end, they proposed that maize and wheat flour should be zero rated so that millers can claim VAT on all goods and services used in their production and reduce the cost to consumers.
40. They proposed that the VAT Act, 2013 should be amended by deleting the paragraph 107 in Section A, Part I of the First Schedule; 'Supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten percent in weight' and inserting it in paragraph 13B of the Second Schedule. This is to delete the flours from the tax exempt list and add them to the zero-rated list.

    Committee's Comments: The Committee noted that supply of maize (corn) flour, cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten percent are on the VAT exempt regime hence the consumers enjoy a non vatable product. Internationally , zero rating is expected to be limited on products meant for export.

3.16 THE AGRICULTURAL SOCIETY OF KENYA (ASK)

41. In their letter Ref:NA/DCS/F&NP/2020/19 dated 3rd April, 2020, the Society was opposed to the proposal to delete the Society from the tax exemption list as provided in the Bill. The Bill proposes to amend Paragraph 1, Schedule 1 of the Income Tax Act. They were opposed to the amendment because the Society is not a profit making organisation and imposition of tax will make it impossible for them to deliver on their mandate due to limited financial resources.

    Committee's Comments: The activities of Agricultural Society of Kenya are commercial in nature. Therefore, its income should be subjected to tax.

3.17 ERNEST AND MARTIN ASSOCIATES

42. In their memorandum, they proposed the following proposals:- THAT -

3.17.1 Income Tax Act:

47. The proviso in section 2 of the Act should be deleted and replaced with the following proviso, '(a) interest earned on an account held jointly by a husband and a wife or held jointly by any two or more individuals shall be deemed to be qualifying interest; and.....';

    Committee's Comment: The current law, the income of a wife can be taxed on the husband. However, this is already addressed under the Income Tax Bill, where the husband and wife's incomes are taxed separately. Therefore, this proposal is not necessary.

43. The amendment proposed to section 12C (3)(b) and (c) should be deleted.

    Committee's Comment: The turnover tax regime is intended for persons in the informal sector who have challenges in keeping records. Professional firms do not fall under this category and bringing them under Turnover Tax is tantamount to changing them from formal to informal which is retrogressive.

44. Amendments proposed to section 15(2)(h) and 15(2)(v) should be deleted because the amendment proposed to s. 15(2)(h) will make it difficult for professionals and organisations that need to be in association to deduct membership fees and the amendment proposed to s. 15(2)(v) should not be made because such a cost is a necessary marketing expense for a business.

45. The proposed amendment to section 12C of the Act should be deleted because it is contrary to the Big 4 Agenda to promote access to affordable housing;

46. Paragraph 36 of the First Schedule should be amended as follows:-

    > (c) a private residence if the individual owner has occupied the residence continuously for the three-year period immediately prior to the transfer concerned;
    > Provided that -

(i) in determining whether or not a person has occupied a residence continuously for three years, any period during which he was temporarily absent from the residence shall be ignored;
(ii) references to a private residence include the immediately surrounding land utilized exclusively for personal purposes as an adjunct to the residence and not for the production of income, but does not include any part of the residence and land utilized for business purposes;
(iii) no individual may claim or be taken to have used more than one residence as his residence at the same time for the purposes of this Act;
(iv) no individual may claim or be taken to have used more than one residence as their residence for the purposes of this Act at any time when they were husband and wife living together;
(v) no individual shall claim or be taken to have used a residence as a residence at any time when he was dependant of either or both of his parents;
(vi) where a residence is used in part for business purposes, or is transferred in a single transaction together with land and other property used for the production of income, the taxable value of that property used for residential purposes shall be separately determined from that used for business purposes or for the production of income;

47. The proposed to paragraph 53 of the First Schedule should be deleted because it will expose the old to challenges;

48. That paragraph 1 of the Second Schedule should be amended as follows, '(xii) other machinery, equipment and other intangible assets';

49. That the definition of manufacture in paragraph 1(f) of the Second Schedule should be amended by inserting the words, 'off grid supply of electricity with the approval of the energy regulatory commission' after the words 'through the national grid'. This is to promote mini-grids that supply power to rural Kenya;

50. That the amendment proposed in paragraph 2(a)(viii) of the Third Schedule should be amended by inserting the words 'rate in each twenty shillings' after the words 'and each subsequent year of income'; and

51. That paragraph 5, Head B of the Third Schedule should be amended by inserting the following paragraph after paragraph (k), '(q) in the ease of sales promotion, marketing, advertising services and transportation of goods (excluding air and shipping transport services) one percent of the gross amount.

3.17.2 The Value Added Tax

52. That the amendment proposed to section 5(2) of the Act should be deleted because it will result in an increase in fuel prices;

53. That the proviso in section 16(1) should be deleted and replaced with the following new proviso,

'Provided that a credit note may be issued: (a) only within six months after the issue of the relevant tax invoice; or (b) where there is a commercial dispute in court or is under any mediation or arbitration with regard to the price payable within thirty days after the final determination of the matter';

54. That the amendment proposing to delete paragraph 13 from the Second Schedule of the Act should be deleted as it will raise the cost of living and encourage use of dirty/harmful fuels like paraffin, firewood and charcoal; and

55. That the amendment proposing to delete paragraph 13A from the Second Schedule of the Act should be deleted because it will increase food scarcity.

Committee's Comment: The Committee agreed with the proposal to delete the proposed proviso to paragraph (aa) in section 5 (2). The amendment if adopted would lead to into inclusion of excise duty and levies from their vatable value of petroleum products. This will affect the cost of petroleum products. In addition, the Committee agreed to support the deletion of the proposed amendment in paragraph 13A of the Second Schedule as doing so would remove ordinary bread from zero rate regime. This would lead to increase in price of bread as there will be claim for input VAT by the companies hence this will be passed on to the consumers.

3.18 WESTMINISTER CONSULTING

56. In their memorandum, they stated that clause 2 on transitional amendments under section 133 of the Income tax Act has provided that the provisions of paragraph 24E of the repealed Second Schedule shall continue to be in force until 30th August, 2020. In light of this, they observed that paragraph 24E of the Second Schedule came into existence and operation on 18th March, 2020 and it is therefore important for it to be implemented before further changes are made, the SGR does not have any facilities for handling bulk cargo from where it starts in Mombasa to Nairobi and Naivasha, under paragraph 24E capital expenditure of five billion for bulk storage and handling facilities was to enable investors recoup their investment which has now been eroded by the repealing of the Second Schedule and the Covid-19 pandemic has created supply chain disruptions especially in foodstuffs, fertilizers and other bulk consignments which this investment of bulk handling and storage facility would have addressed. They therefore recommended that the amendments to paragraph 24E should be extended to 31st December, 2021.

Committee's Comment: The

3.19 KIPKENDA AND CO. ADVOCATES

In their letter Ref: SK/18/PAL/4099 dated 6th April, 2020, they submitted as follows:-

3.19.1 Income Tax Act

57. They were opposed to the deletion of section 15(2)(ab) citing that it will lead to an increase in the cost of doing business.

Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

3.19.2 The Value Added Tax

58. They were opposed to the amendment proposed to section 5(2)(aa) because it will lead to an increase in the price of petroleum which will affect other sectors of the economy.
Committee's Comment: The Committee agreed with the proposal to delete the proposed proviso to paragraph (aa) in section 5 (2). The amendment if adopted would lead to into inclusion of excise duty and levies from their vatable value of petroleum products. This will affect the cost of petroleum products.

3.19.3 The Tax Procedures Act

59. They were opposed to the repeal of section 65(3) because the section ensures certainty for taxpayers which aids in their decision making for transactions already entered into or proposed to be entered into. Having an indefinite periods beats the essence of private rulings.

Committee's Comment: The Committee observed that Section 65(3) requires the Commissioner to issue a private ruling to an applicant within 45 days of receiving the application. The Committee did therefore not support the repeal of this section. The Committee proposed a further amendment to increase the number of days from 45 to 60 days as this would provide for sufficient time .

60. They were also opposed to the deletion of section 69 of the Act because removal of the requirement to publish private rulings is a limitation on access to information under Article 35 of the Constitution.

Committee's Comment: The Committee agreed with the proposal to delete the section as private rulings should not be publicised as they are between a tax payer and the Authority.

3.19.4 Kenya Revenue Authority Act

61. They were in support of the proposed amendment but were of the opinion that the reward should be on a case to case basis depending on the revenue likely to be earned by KRA on the tax compliance by the persons and the tax efficiency principle must be followed whereby the cost of recovery should not exceed the amount recovered.

3.20 ZAMARA

They submitted the following comments on the Bill:-

3.20.1 Retirement Benefits Sector

62. They were opposed to the removal of tax exemption on the investment income of the National Social Security Fund (NSSF) stating that it will deal a severe jolt to NSSF and long term saving industry in Kenya, adversely impact the retirement savings of Kenyans and undermine the significant progress that has been achieved in the last 20 years since the implementation of the Retirement Benefits Act.

63. They were also opposed to the removal of tax exemption on pension benefits for persons above 65 years of age because this will hurt the elderly in the country.

Committee's Comment: The Committee agreed that the removal of tax exemption on the investment income of NSSF would affect the retirement benefits for Kenyans. The Committee therefore agreed to reject the proposed deletion from the First Schedule of the Income Tax Act.

3.20.2 Insurance Sector

64. They were opposed to the introduction of VAT to insurance agencies and brokerage services citing that this will impact negatively on the uptake particularly of retail and mass market retail insurance solutions in Kenya.

3.20.3 Capital Markets

65. They were opposed to the removal of tax exemption on interest for infrastructure bonds and green bonds because it will undermine the confidence of both local and global investors in Kenya's capital markets.

Committee's Comment: On the introduction of VAT on insurance brokerage services and security exchange brokerage services, the Committee observed that the proposed amendment is to have insurance agency, insurance brokerage and security exchange brokerage services taxable. The exemption was meant to grow the insurance sector and the capital markets. These sectors have matured to a level whereby they can contribute to Government revenue. The Committee agreed to support the proposal in the Bill. Regarding the green bonds market, the exemption was introduced in Finance Act, 2019 and took effect in January , 2020. Due to the need to encourage uptake of green bonds, the Committee supported the continued exemption of green bonds from income tax.

3.21 KENYA BANKERS ASSOCIATION (KBA)

In their letter dated 6th April, 2020, they proposed the following amendments and inclusions in the Bill:-

3.21.1 The Income Tax Act

66. They proposed addition of the following proviso to section 15(2)(a) of the Act, '*Provided that provisions for bad debts and bad debts written off by banks during the period of two years from 1st April, 2020 shall be deductible. Any debts that are subsequently recovered*

shall be deemed to the taxable income in the year the recovery is made'. This is to enable banks to support businesses and individuals that are adversely affected by the pandemic. Committee's comment: The proposed to allow for deductible expenditure will erode revenue yield.

67. They proposed the following amendment to section 15(2)(aa), '*the cost borne by banks on restructuring loans due to the economic downturn arising from the effects of COVID-19*'. This is to cushion banks against the impact of restructuring loans.

Committee's comment: The proposal will lead to revenue loss

68. They proposed introduction of new paragraph 5(4)(h) under the Act as follows, '*telephone expenses and internet facilities provided by or paid for by an employer on behalf of employees working remotely or from their homes*'. This will allow for seamless transition to working from home which is critical in enforcing social distancing.

69. Introduction of the following new paragraph 15(2)(ac), '*cash or the cost of materials and equipment donated to hospitals or other public institutions including the COVID-19 Emergency Fund towards the efforts to combat the COVID-19 pandemic*'. This is to encourage mobilisation of resources during this time.

70. Opposed the deletion of sections 15(2)(s), 15(2)(ss), 15(2)(u) because it will discourage companies from listing on the NSE due to increased costs.

71. Opposed to the deletion of section 15(2)(x) because the country will highly depend on the private sector post COVID-19 to improve investments in the health sector and the tax deductions will be important to encourage such contributions.

72. Opposed the deletion of section 22(c) because it will be a negatively affect the Big Four Agenda of providing affordable housing.

73. Opposed to the deletion of paragraph 51 of the First Schedule because the removal of the exemption which was a key attraction to Kenyan bonds will make them less attractive to foreign investors.

74. Proposed the following amendment to item (vii) of paragraph 2(b) of the Third Schedule, '*for the year of income 2020 and each subsequent year of income, KES 5 for each KES 20*'. This will give effect to the incentive announced by the President to reduce the corporation tax rate to 25% to cushion business against the impact of COVID-19.

75. Proposed the an amendment to paragraph 2(b) Part B of the Third Schedule to include new subsections 3 and 4 as follows, '*for the year of income 2020 and each subsequent year of income the rate shall be six-half shillings in every twenty shillings chargeable to tax*'. This

will ensure similar reduction of tax rate by 5% to 32.5% demonstrating fairness and equity to non-resident companies that have permanent establishments in the country.

76. Opposed the deletion of Paragraph (e) to the Third Schedule so as to encourage companies to list on the NSE.

77. Proposed deletion of the amendment to paragraph 3(d) of the Third Schedule in order to encourage companies to set up locally.

Committee's Comment: The Committee noted some of the proposals were not contained in the Bill. The Committee however agreed to support the proposal to retain sections 15(2)(s), 15(2)(ss), 15(2)(u). The Committee therefore did not support the proposed deletion in the Bill so as to ensure that expenditure of capital nature incurred under the sections remain allowable deductions while ascertaining total income.

78. On the Excise Duty Act they proposed the following amendment to paragraph 2 of Head II of the Second Schedule, '*excise duty in fees charged for money transfer services by banks, money transfer agencies and other financial service providers shall be fifteen percent of their excisable value*'. This is to reduce the excise duty on money transfer services by banks from 20% to 15%.

Committee's Comment: Proposal will lead to revenue loss.

3.21.2 The Value Added Act

79. They proposed introduction of a new paragraph 19, Part A of the Second Schedule as follows, '*personal protective equipment, sanitizers, masks and related materials and equipment recommended for use in the fight against COVID-19*'. This is to make them affordable.

80. They proposed inclusion of maize (corn) flour, cassava flour and wheat or meslin flour and maize flour to Part A of the Second Schedule in order to make them affordable.

81. Proposed retention of milk, bread and medicaments under Part A of the second Schedule in order to prevent increase in the price of the commodities.

82. Opposed the amendment to section 5(2)(aa)(i) because it will lead to higher cost of production in the manufacturing process that will increase consumer prices for most products.

83. Objected the charging of VAT on transfer of business in order to help businesses that are likely to suffer the consequences of COVID-19 and require to restructure their businesses in the post COVID period

84. Opposed the charging of 14% VAT on insurance agency, brokerage and reinsurance business because it will increase the cost of insurance businesses.

Committee's Comment: The proposal by KBA to include maize (corn) flour, cassava flour and wheat or meslin flour and maize flour as zero rated items would lead to revenue loss. The Committee agreed to support the retention of milk, bread and medicaments as zero rated commodities as introducing VAT would lead to price increases. In addition , the Committee agreed on the deletion of the proposed amendment to section 5(2)(aa)(i) as it would introduction of excise duty on petroleum products would lead to increase in price. The Committee did not support the continued exemption from VAT on insurance agency, brokerage and reinsurance business.

3.21.3 The Tax Procedures Act

85. They proposed amendment of section 33(5) by including the following proviso, '*provided that no interest shall be due and payable on any extensions granted during the two year period with effect from 1st April, 2020*'. Deferring the interest charge for two years will allow the businesses to recover.

86. Proposed addition of the following new section 37C, '*notwithstanding any other provision of this Act and considering the difficulties facing businesses as a result of the COVID-19 pandemic, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest for a period of six months with effect from 1st April, 2020*'. Many employees are operating from remotely or from home with limited access to documentation which is required during tax audits. As a result, taxpayers will not be able to adequately respond to KRA requests for supporting documents resulting in assessments which would ordinarily be resolved if the taxpayers had access to their records.

87. Proposed the amendment of section 51(11) by introducing the following new paragraph, '*provided that prior to the expiry of the sixty days, the Commissioner may be writing to the taxpayer extended the period by an additional thirty days where there are ongoing discussions between the taxpayer and the Commissioner to resolve the tax dispute*'. This is to provide timelines.

88. Proposed that section 65(3) should be amended by deleting the words '*forty five days*' and replacing with '*sixty days*'. This is to make the tax law certain and to give taxpayers a definite time within which to expect the Commissioner's ruling in order to plan.

89. Proposed the deletion of section 69 because the Commissioner has had a challenge complying with the requirement to publish private rulings in newspapers.

90. Objected the proposed imposition of a penalty by removing the proposed section 39B(3). This is because the proposal is punitive especially because banks are providing a pro-bono service to KRA.

91. Supported the introduction of subsequent 5B to require the Commissioner to respond to the application under section 5A within 60 days failure to which the application should be considered as granted. This is to allow persons who do not pose any tax leaks exposure to transact such as non-resident investors, foreign and correspondent banks and other non-resident account holders.

Committee's Comment:

3.22 KENYA PRIVATE SECTOR ALLIANCE (KEPSA)

In their memorandum, the Alliance proposed the following amendments to the Bill:-

3.22.1 The Value Added Tax

92. Amend clause 31(1) to provide that the rate of value added tax should not include excise duty fees and other charges from taxable value of certain goods because this does not relieve the taxpayer instead it increases the tax by 15%.

93. Were opposed to the amendment to paragraph 39(3), part 1, section A of the First Schedule. This is because the deletion promotes affordable healthcare to the public and realisation of Universal Healthcare Coverage. They further proposed that medical devices should be zero-rated because they are essential healthcare products in the provision of health.

94. Amend paragraph 97 of the First Schedule by deleting the word 'marine'. This amendment will extend the application to all fisheries – whether inland or sea, fresh water or salt water; in compliance with the Blue Economy policies.

95. Amend part A of the Second Schedule by retaining agricultural pest control products and raw material for manufacture of agricultural pest control products because introduction of VAT to the products will increase their price and may have a negative impact on food security.

96. Objected the deletion of paragraph 26 of the First Schedule this is to make fertilisers and agrochemicals affordable to farmers.

97. Amend clause 97 of the First Schedule by deleting the word 'marine'. This is to support and promote growth in the aquaculture industry and allow for cheaper products to the consumer.

98. Remove duty on vegetable seed; pepper, corriander and water melon seed in order to make them affordable to farmers.

99. Wrong classification of pepper, peas, corriander and water melon seeds as spices consequently making them attract duty.

Committee's Comment: The Committee rejected the proposal to amend section 31 (1) of the VAT Act as the amendment in the Bill seeks to limit the period within which an application for refund in case of bad debts to 4 years. This is so as to harmonize the provisions relating to refund of tax arising from bad debts for both VAT and Excise Duty.

The Committee agreed to support the continuation of zero rating of medicaments , fertiliser to remain as an exempt items and agricultural pest control products to remain as zero rated item.

3.22.2 The Income Tax Act

100. Give interest to the companies for any genuine claims after 6 months passing from the date of the claim. This will make KRA to act expeditiously.

101. Amend section 105 so that companies that have overpaid taxes by more than 2.5 million (or a set threshold) make refunds so that these companies can put their money to work in order to stay open. Alternatively, overpaid taxes should be applied to PAYE or other statutory taxes so that companies retain cash for operations.

102. Opposed the amendment proposed to section 4, 5 and 15 of the Second Schedule because the current provisions were meant to promote the set-up of industries out of Nairobi, Kisumu and Mombasa.

103. Amend section 12(c)(1) to provide that turnover from business is more than five hundred shillings but does not exceed or is not expected to exceed fifty million shillings during any year of income in order to support small and medium sized businesses to grow.

104. Amend section 4, 5 and 15 of the Second Schedule to provide that investment allowance of 100% and 150% for amount of expenditure exceeding KShs. 200 million outside Nairobi for manufacturer in order to cushion and attract new investors and promote economy growth.

105. Amend Paragraph 3(a) of Head B of the Third Schedule to the Income Tax Act by deleting the expression "twenty percent" and replacing it with the expression "ten percent". The proposal is to align withholding tax rates to the new regime where there are reduced withholding tax rates in the new Double Tax Agreements the Government is entering into.

106. Amend Section 10(k)(2)(1) in order to define sales promotion, marketing and advertising services as "*a payment made for consultancy or for the development of marketing and advertising material in relation to sales promotion, marketing and adverting*". In order to make it clear as to what is being taxed.

107. Amend section 10(k) and paragraph 3 of the Third Schedule to provide that in case of transport the WHT should be reduced to 37.5% of 10%, that is 3.75% because the WHT rate of transport should not exceed 5% as it will not be commercially viable. In case of marketing and sales promotion, while the development of such material could be subject to withholding

tax, actual advertising on social, print and digital media should not be subject to withholding tax as it will discourage international advertising.

108. Section 15(2)(aa) should be amended to read "*expenditure incurred in that years of income on donations to the Kenya Red Cross, county governments, government ministries, a body that is registered or exempt from registration under the Non-Government Organisations Co-ordination Act, 1990 or any other body or institution appointed by the President to be responsible for collection of funds or the management of national disasters or expenditure incurred by a resident taxpayer on a project or a direct expenditure towards the alleviation of national disaster declared by the President*". This will enable all Kenyans to assist in the alleviation of COVID-19.

109. In section 133(6) there is reference in the proposed change to paragraph 24E of the Second Schedule which does not exist.

110. In paragraph 36, Part 1 of the First Schedule, the gain should not be taxed and rolled over, where the entire sales proceeds less incidental costs are reinvested into buying another qualifying private residence. This is generally an accepted basis that capital gains tax should only be levied on the eventual sell.

111. Opposed the deletion of paragraph 45, part 1 of the First Schedule because NSSF aims at ensuring retirement protection.

112. In paragraph 1 of the Second Schedule, in respect to hotel building, manufacture, hospital building and petroleum storage building the rate should be amended to 50% on the first year of use and 10% for the 5 subsequent years. In respect to educational building and commercial buildings, the rate should be amended to 10% straight line. This is because a straight line of allowance reflects a more direct pattern to return on investment on such buildings than reducing balance basis.

113. Amend paragraph 1 of the Second Schedule to read as follows, "*structures and civil works relating to water or electric power undertaking and other structure and civil works where they relate or contribute to the use of the building*". This is because the current definition is not clear and implies that only civil and structure works in relation to water and electric power are included in the claim and not other structures and civil works.

3.22.3 The Tax Procedures Act

114. Section 39A of the Act should be deleted because the right of the taxpayer under the Constitution should be upheld.

115. The procedure under section 65(3) of the Act should be reinstated and the time limit increased from 45 to 60 days. This is because the taxpayer has a right to services from a Government body.

3.23 THE NAIROBI SECURITIES EXCHANGE (NSE), KENYA ASSOCIATION OF STOCKBROKERS AND INVESTMENT BANKS (KASIB), THE FUND MANAGERS ASSOCIATION (FMA) AND THE ASSOCIATION OF COLLECTIVE INVESTMENT SCHEMES (ACIS)

In their memo dated 6th April, 2020, the Institutions proposed the following amendments:-

3.23.1 Income Tax Act

116. Amend paragraph 51, part 1 of the First Schedule in order to maintain the exempt tax status on interest earned from infrastructure bonds and green bonds as has been the case. This is to encourage investment in the sector.

117. Amend paragraph 2(c), (d) and (e) of the Third Schedule to read as follows, '(c) a company newly listed on any securities exchange approved under the Capital Markets Act which has at least 10% of its issued share capital listed, 25% for the period of five years commencing immediately after the year of income following the date of such listing. This is to encourage companies to list on the NSE.

118. They proposed that the WHT rate for dividends for non-residents should be maintained at 10%. This is to encourage foreign direct investment in the country.

119. Maintain the tax status on the exemptions for pooled funds or other kind of funds consisting of retirement schemes. This is because pooled funds make up an integral source of investment money for Government securities.
Committee's comments: The Committee observed that the proposed deletion of items under paragraph 51of part 1 of the First Schedule seeks to remove exemption from income tax, interest income accruing from all listed bonds, notes or other similar securities used to raise funds for infrastructure and other social services, provided that such bonds, notes or securities shall have a maturity of at least three years. The Committee agreed with the proposal but also proposed a transitional provision to safeguard the already issued bonds or securities.
The Committee agreed to support the increase by 5% of the WHT for dividends earned by non-residents. This is to ensure that more revenue is collected to support Government in raising much needed revenue.

3.23.2 Value Added Tax

120. Maintain the tax status on stockbrokerage services to be exempt as has been the case because the amendment will reduce investment in Government securities, there will be reduced investment in shares and there will be reduced liquidity.

Committee's comments: The proposal to exempt insurance and stock stockbrokerage services from VAT was rejected as the sectors had come of age hence continued exemption was denying Government revenue.

3.24 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)

In their letter Ref: ICPAK/CE-PPR/04/2020 dated 6th April, 2020, the Institute proposed the following amendments to the Bill:

3.24.1 Income Tax Act

121. Amend section 2(a) by inserting the following words '*or held jointly by any two or more individuals*' between the words '*wife*' and '*shall*' for clarity.

Committee's Comment: Under the current law, the income of a wife can be taxed on the husband. However, this is already addressed under the Income Tax Bill, where the husband and wife's incomes are taxed separately. Therefore, this proposal is not necessary.

122. Delete the proposed section 10(1)(k) because it is not clear as the section relates to non-residents.

Committee's Comment: These amendments were to impose tax on the services (sales promotion, marketing, advertising service and transportation of goods (excluding air and shipping transport services) offered by non-residents.

123. Amend the proposed section 15(2)(h) as follows, '*an entrance fee or annual subscription paid during that year of income to a trade association*'. This is to allow freedom of association as guaranteed under Article 36 of the Constitution.

Committee's Comment

The Committee agreed to allow the expense in section 15 (2) (h) as an allowable deduction.

124. Delete the proposed amendment to section 15(2)(ab) to ensure that basic items are produced in line with the Big Four Agenda, investors in the manufacturing industry need to be incentivised.

Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

125. Delete the proposed amendment to section 15(2)(v) because it is a business related expense as it creates facilities and opportunities for networking and business development.

126. Amend the proposed amendment to section 22C by deleting it or inserting the following transitional provision *'(a) a person currenty contributing to a Home Ownership Savings Plan may withdraw such contributions and pay tax based as if such withdrawals were under paragraph 5(d)(i) of the Third Schedule to the Income Tax Act; (b) withdrawals towards the purchase of a home will not be subject to tax*'. Removal of HOSP leaves contributors stranded and exposes refunds to tax.

127. Deletion of amendments proposed to paragraph 30 of the First Schedule for the sake of trade relations that Kenya enjoys with the USA under the AGOA provisions.

Committee's Comment: The exemption is no longer applicable since the cooperation with the department of Agriculture of the USA was for a specified period.

128. Delete the amendment proposed to paragraph 32 of the First Schedule until there is clarity given the implications of Legal Notice No. 35.

129. **Committee's Comment:** There is no clarity on which Legal Notice 35 is being referred to. In addition, all government corporate entities are required to pay tax on their commercial activities including income from any interest, management and professional fees paid to any person.

130. Amend paragraph 34 of the First Schedule by deleting the following words, 'East African Power and Lighting Company'. This is because electricity generation is still a critical element in the production capacity of every aspect of the Kenyan economy.

Committee's Comment: The agreement pursuant to which the exempt income of this Company was derived is no longer in force and hence the exemption is unnecessary. The proposal to have the General Superintendence Company Limited with Geothermal Development Co. is a separate agenda and exemptions are being rationalized.

131. Delete the amendment proposed to paragraph 35 of the First Schedule and provide for transitional provisions/arrangements. This is because Kenya Post Office Savings Bank should not be removed from exemptions until there is necessary transitional arrangements on the existing student beneficiaries.

Committee's Comment: The Committee agreed to exempt from income tax Interest on a savings account held with the Kenya Post Office Savings Bank. The Committee observed that the bank exists to support communities that do not have access to major banks and being a savings bank it encourages saving culture. The imposition of income tax on the interest on savings accounts would lead to reduced earnings for the bank.

132. Delete the amendment proposed to Paragraph 45 or enhance the definition or registered individual retirement fund to include NSSF. This is to ensure that the financial security of retirees is not eroded.

133. Delete the amendment proposed to paragraph 50 of the First Schedule because it is necessary to increase the value of investments and build up on savings to retirees.

134. Delete the amendment proposed to paragraph 51 of the First Schedule because it will reduce uptake of infrastructure bonds including the M-Akiba initiative as the infrastructure bond will yield lower returns.

135. Delete the amendment proposed to paragraph 52 in order to enable mobilisation of financial resources for investments and capital projects.

136. Delete the proposed amendment to paragraph 53 of the First Schedule because it will result in reduction of disposable income for low income earners.

137. Delete the amendment proposed to paragraph 60 of the First Schedule because it will reduce uptake of green bonds and future issues will not raise the desired amount as the return provided is below other comparable investment vehicles.

138. Amend part II of the First Schedule by deleting paragraphs 1 to 8 because it will discourage funding of projects in Kenya by the Export-Import bank of USA and may result in trade wars with USA.

139. Amend paragraph 2A of the Third Schedule by harmonising the corporation income tax rates for both residents and non-residents as well as the withholding tax paid on remittances of dividends and repatriation of profits respectively. This is to incentivise investors who would like to set up Pes in the region to consider Kenya as the corporation tax rate will be the most competitive in the region.

140. Amend paragraph 2(a) of the Third Schedule to provide clarity that the commencement date for corporate tax to apply for the year of income 2020. This incorporates all year ends.

Committee's comments: The Committee agreed to delete the proposal in paragraph 45 and 50 to ensure that investment income of a pooled fund or other kind of investment consisting of retirement schemes and income of the National Social Security Fund continue to be exempted from income tax. Imposition of income tax will negatively affect NSSF and collective investment schemes. The exemption is necessary to increase the value of investments and build up on savings to retirees.

3.24.2 Value Added tax

141. Deletion of the proposed amendment to section 5(2)(aa) to help maintain prices of petroleum products at affordable prices.

142. Deletion the proposed amendment to section 5(2)(aa)(i) in order to cushion consumers from increased costs.

143. Deletion of the amendment proposed to paragraphs 45 and 48, Part 1 of the First Schedule in order to cushion consumers from increased costs.

144. Deletion of paragraph 53, Sec. A, Part 1 of the First Schedule because affordable gadgets could help institutions in delivering online/digital learning.

145. Deletion of the proposed amendment to paragraphs 90 and 93 because increase in taxes will raise the price of food and impact negatively on food security.

146. Deletion of the proposed amendment to paragraph 107, Part 1 of the First Schedule.

147. Deletion of amendments proposed to paragraph 10, Part II of the First Schedule in order to make insurance affordable.

148. Deletion of the amendment proposed to paragraph 13A, Part A of the Second Schedule in order to lessen the burden to poor households in the face of high unemployment rate.

149. Deletion of the amendments proposed to paragraphs 16 and 19, Part A of the Second Schedule in order to ensure food security in the country.

150. Amendment of section 16(1) (b) by inserting the following words '*or is under any mediation or arbitration*' between the words '*court*' and '*with*'. This is because mediation and arbitration cannot be left out in any discourse involving an aspect of commercial dispute.

151. Amend Part A of the Second Schedule by including the relevant tele-conference/audio visual equipment as part of the zero-rated supplies. This is to ensure continuity in education, encourage timely and low cost meetings/gatherings.

152. Deletion of proposed amendments to paragraph 13 of the Second Schedule because it will make the cost of living expensive and encourage use of dirty and harmful fuels.

153. Amend clause 97 of the First Schedule by deleting the word 'marine' in order to support and promote growth in the larger aquaculture industry.

3.24.3 Excise Duty Tax Act

154. Amend section 2(1) by inserting the following definitions:-
'*Finished products: product that has undergone all stages of production within its value chain including packaging in its final container*' and '*inputs: materials or items for use in substantial transformation to finished product by entities subject to rules of origin criterion*'. This is to define the criteria for the classification of an item as either a finished product or an input based on its position in the value chain.

3.24.4 Tax Procedures Act

155. They were opposed to the repeal of section 65(3) and proposed that it should be retained as is in the Act with the following amendment, deleting the words '*forty five*' and replacing with the word '*sixty*'. This will enhance clarity, minimise future disputes and ensure efficiency in tax administration.

156. Amend section 69(1) and section 69(3) by deleting the words '*at least two daily newspapers with a national circulation*' and replacing with the words '*KRA official website*'. This is to facilitate consistency in application of law.

157. Delete the proposed amendment to section 83(1)(b) and replace with the following, '*(b) one thousand shillings if it is in relation to a return required to be submitted under*

turnover tax and under residential rental income tax; or'. This is for fairness in tax administration.

3.25 OXYGENE

In their memorandum, they proposed the following amendments:-

158. Reduction of VAT to 8% holding all other taxes constant because price points of manufactured goods works in 5s and 10s. The impact of the reduction to 14% is to small to be felt by the consumers.

159. On the reduction of corporate tax to 25%, they proposed that there should be a total excise waiver on all alcoholic beverages already manufactured with an expiry date of end of August, 2020 as the products are not being consumed present and will likely be disposed off. Additionally, the Cost of Goods Sold excise duty should be reduced to KShs. 100 per litre of beer from KSh. 110.6 and to KSh. 200 from KSh. 253 per litre for spirits in order to reduce the RRP considering that there will be a dip in disposable income post COVID-19.

160. The bonding period for imported goods should be increased by 30 days in order to delay the payment of import duty (not VAT) allowing manufacturers time to recover cash flows from business and operations continuity.

161. The 30% electricity rebate should be retained to cushion manufacturers against the significant impact that COVID-19 is likely to have owing to the disruption in the supply chain.

    Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

162. The Bill proposes to extend the turnover tax provisions to persons with annual turnover of between KSh. 500,000 and KSh. 50 million. It is important to clarify the status of businesses with turnover below KSh. 500,000.

163. The provision to make banks agents should be deleted as it does not allow the taxpayer to seek alternative remedies where such demand is incorrect.

3.26 ASHFORD CONSULTANTS

In their letter Ref:NA/030420/ZS/AA dated 3rd April, 2020, they proposed the following amendments to the Bill:-

3.26.1 Income Tax Act

164. The Third Schedule of the Act should be amended to reflect the reduced corporate tax rate of 25% so that the Bill is in line with the measures announced by the President.

165. Amend the Second Schedule by inserting the following sections immediately after section 9,

'10A. Subject to this Schedule, where capital expenditure is incurred on the construction of a building or on the purchase and installation of machinery by or for a Special Economic Zone Enterprise for use by the enterprise in carrying out the business activities for which it was licensed, the enterprise shall be entitled to an investment deduction, equal to one hundred percent of the capital expenditure, against the gains or profits of that enterprise in the year in which the building or machinery is first used;

10B. Subject to this Schedule, where capital expenditure is incurred on the construction of a building or on the purchase and installation of machinery by or for a Special Economic Zone Enterprise located outside Nairobi and Mombasa Counties, for use by the enterprise in carrying out the business activities for which it was licensed, the enterprise shall be entitled to an investment deduction, equal to one hundred and fifty percent of the capital expenditure, against the gains or profits of that enterprise in the year in which the building or machinery is first used'. This is to ring fence the fiscal incentives already provided to investors in the SEZs.

3.26.2 Value Added Tax Act

166. Deletion of the amendment proposed to section A, Part 1 of the First Schedule because it will increase the price of bread.
Committee's Comment: Agreed to the retention of bread on zero rate to ensure that price does not increase.

167. Amendment of section A, Part 1 of the First Schedule by inserting the following paragraph immediately after paragraph 30, '*40. Taxable supplies, procured locally or imported for the construction of liquefied petroleum gas storage facilities with a minimum capital investment of four billion shillings and a minimum storage capacity of fifteen thousand metric tonnes as approved by the Cabinet Secretary for National Treasury upon recommendation by the cabinet Secretary responsible for liquefied petroleum gas*'. This is to cushion investors who have already invested or are in the process of constructing LPG storage facilities with a minimum capacity of four billion shillings and minimum storage capacity of 15 thousand metric tonnes. It will also lower the cost of LPG.

168. Amendment of section A, Part II of the First Schedule by inserting the following paragraph immediately after paragraph 11, '12. *Taxable supplies, procured locally or imported for the construction of liquefied petroleum gas storage facilities with a minimum capital investment of four billion shillings and a minimum storage capacity of fifteen thousand metric tonnes as approved by the Cabinet Secretary for National Treasury upon recommendation by the cabinet Secretary responsible for liquefied petroleum gas*'. This is to cushion investors who have already invested or are in the process of constructing LPG storage facilities with a minimum capacity of four billion shillings and minimum storage capacity of 15 thousand metric tonnes. It will also lower the cost of LPG.

3.27 ENERGY DEALERS ASSOCIATION

169. In their letter Ref: EDA/001/CAN/2020 dated 6th April, 2020, they were opposed to the deletion of the liquefied petroleum gas from the list of zero-rated items noting that it will lead to an increase in the price of LPG, closure of SMEs, encourage deforestation, increase in respiratory disease due to use of dirty fuels, increase in fuel adulteration, compromise to safety etc.

3.28 MINISTRY OF FOREIGN AFFAIRS

170. In their letter Ref:MFA.ADM.1/103A VOL.XLVIII dated 6th April, 2020, the Ministry proposed the following amendment to section 99(1)(c)(ii) by inserting the following words, 'not being a public officer returning from a posting in a Kenyan mission abroad or a spouse of such officer,' between the words 'person' and 'has'. This is to exempt foreign service officers returning from paying duty on previously imported motor vehicles.

3.29 SUNBLEST

171. In their memorandum, they were opposed to the removal of bread from the zero-rated list citing that it will lead to an increase in the price of bread.

Committee's comment : The removal of ordinary bread from zero rate would lead to increase in the price of ordinary bread which is an essential commodity in most households.

3.30 KENYA ELECTRICITY GENERATING COMPANY (KENGEN)

In their letter Ref:CF/MOE/TAX/MM/nk/10 dated 6th April, 2020, the Company proposed the following amendments:-

172. Delete the amendment proposed to paragraph 56 of the First Schedule in order to avail much needed cash for investment in electricity generation and to attract foreign investment in the energy sector.

173. Delete the amendments proposed to paragraphs 24(1)(f) and paragraph 24(2)(c) because electricity generation being capital intensive has a long investment cycle to realize the returns and the incentive supports the sector to recover the capital costs initially before realizing the returns and also to attract investors through PPPs in generation of electricity.

3.31 FERTILIZER ASSOCIATION OF KENYA (FAK)

174. In their letter Ref: FAK/VAT/PAR/01/04 dated 6th April, 2020, the Association was opposed to the removal of fertilizers from the list of tax exempt items in order to enable farmers to buy fertilizers at affordable prices.

3.32 TAX ARK CONSULTING LIMITED

In their letter dated 6th April, 2020, they proposed the following amendments to the Bill:-

3.32.1 Income Tax Act

175. Opposed the repealing of paragraph 53 of the First Schedule because it is against the President's directive of putting more disposable income into the pockets of vulnerable persons.

Committee's Comment: The amendment proposed in the Bill seeks to apply income tax on monthly or lump sum pension granted to a person who is sixty five years of age or more. Thee proposal to tax these vulnerable people in the society would disadvantage them given that majority of these people have medical conditions and are ineligible for medical insurance covers.

176. They proposed that the new proposed summarized of the Second Schedule should be retained but the repealed rates of capital deductions should be retained as this goes against the President's directive.

Committee's Comment: The Second Schedule to the Income Tax Act provides for rates of investment deductions of up to 150%. This implies that the Government has been subsidizing the cost of such expenditure even where the investment would still have been incurred because of its nature such as geothermal exploration. In addition, some sectors have been provided with accelerated rates of investment deduction of 100% (capital expenditure allowance of 100% in the first year of use). The amendments is to limit the rate of capital allowances to 100% by repealing the current schedule and inserting a new schedule. The amendments provides for 50% in the first year of investment and the residual to be claimed at different rates (10% or 25%) on a reducing balance.

177. Opposed the amendment to section 35(1) because the same proposal was in the Finance Bill, 2019 but was rejected by the National Assembly and it is therefore mischievous to sneak the provision in this Bill.

178. **Committee's Comment:** It is noted that the provision is to tax income received by non-residents when they offer services like advertising on platforms such as facebook, google and many others. The income is derived and accrued from Kenya, therefore, the provision is to curb loss of revenue and erosion of the tax base.

3.33 SOCIETY OF CROP AGRIBUSINESS ADVISORS OF KENYA (SOCAA)

179. In their letter dated 6th April, 2020, they proposed that fertilizers, agrochemicals and seeds should remain zero rated in order to ensure food security in the country.

Committee's Comment: The Bill has proposed to introduce VAT on fertilizers, agrochemicals and seeds. The action will lead to increased priceon these commodities hence becoming unaffordable to farmers and thereby undermining food security and nutrition agenda.

3.34 MR. DARIUS MWACHALA

180. He proposed that KRA should waive all penalties and interests up to February 2020 in order to encourage more taxpayers to come on board to pay their taxes. Additionally, penalties on VAT should be reduced from KSh. 10,000 per month to KSh. 2,000 and

the annual return late filing penalty for individuals should be KSh. 2,000 and for companies should be reduced from KSh. 20,000 to KSh. 5,000.
Committee's Comment: The intervention will lead to loss of revenue on the Government.

3.35 CPA ROBERT GATHOGO KAMWARA

In his memorandum, CPA Kamwara proposed the following amendments to the Bill:-

3.35.1 The Income Tax Act

181. The proposed amendment to paragraph 36 should be increased to three years instead of two year because court processes have a longer turn-around judgement time on succession matters than other court matters.

182. The deletion of sections 40, 41, 44, 45, 45, 47, 50, 51, 52, 53, 55 and 56 could have better been addressed in the Income Tax Bill in order to eliminate ambiguity and inconsistency within sections/paragraphs in the Income Tax Act, the Value Added Tax Act and the Tax Procedures Act.

Committee's Comment: The intervention will lead to loss of revenue on the Government

183. Paragraph 6 of the Second Schedule should be amended by amending the restriction of capital motor vehicle from KSh. 3 million to KSh. 5 million in order to promote local motor vehicle assemblies and the importers of apare parts and local garages.
Committee's Comment: The amendment if allowed will affect revenue on the Government

184. Opposed the proposed amendment to exclude the cost of land when determining the value of the property under paragraph 7. This is retrogressive as it discourages idle land from being developed and also discourages the vibrant construction industry.

185. PAYE should not be deducted on pensions or retirement annuities paid to retirees because the amounts on deduction have largely been held in government bonds and other sectors of the economy and the same is being disbursed for development purposes.

Committee's Comment: The amendment will negatively affect earnings of this category of retirees.

3.35.2 The Value Added Tax Act

186. Proposed the inclusion of bee keeping agricultural activities in the VAT exempt products including the trading in honey, bees was, propolis, pollen and royal jelly equipment.
Committee's Comment: The exemption is limited to fewer items and doing so would affect the revenue yield for Government.

3.35.3 The Tax Procedures Act

187. Deletion of section 39B(3) and (4) because the amendments discourage tax agents from acting freely and does not allow them to carry out their duties without coercion.

3.36 ISRAEL CHEMICAL LIMITED (ICL)

188. In their memorandum, they opposed the removal of farm inputs like fertilizers, seeds and agrochemicals from the tax exempt list and further proposed that they should be zero rated in order to reduce the cost of food.

3.37 SUNWORLD SAFARIS

189. In their letter dated 6th April, 2020, they opposed the imposition of VAT on services provided by tour operators and park entry fees because the tourism sector has been greatly affected by the COVID-19 pandemic.
Committee's Comment: The proposed amendment in the Bill will negatively affect the Tourism Industry that has already suffered immensely . The proposal by Sun World therefore merits.

3.38 NATIONAL TAXPAYERS ASSOCIATION

190. In their memorandum, they opposed the changing of the provision allowing manufacturers to deduct 130% of their electricity expense when determining their taxable income to 30% because it will increase the cost of production and make locally manufactured goods non-competitive. They were also opposed to the removal of capital gains exemptions because it will expose Kenyans to a situation whereby they are discouraged against building capital through home ownership.

Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

3.39 MR. ROBERT K. KILIMO

191. In his memorandum, Mr. Kilimo proposed that the Government should restructure the 2019/20 budget and suspend all development and travel budget and redirect these to a direct cash payment of KSh. 5,000 to every Kenyan citizen. The Government should also take over one facility at County Level and facilitate it fully with PPEs and staff to take care of those who will be infected by the coronavirus.
Committee's Comment: The matter can be addressed through the budgeting process.

3.40 KENYA AIRWAYS (KQ)

In their letter Ref:30/tax/bn/2020 dated 6th April, 2020, Kenya Airways proposed the following amendments to the Bill:-

3.40.1 Income Tax Act

192. Amend section 34(2)(o) by deleting the word 'aircraft' and replacing with the word 'aviation'. This is because given the cost of aircraft, Kenya does not have capacity to offer the products.

Committee's Comment: Aviation is a more encompassing term hence the proposal merit.

3.40.2 Value Added Tax Act

193. Delete the amendment proposed to paragraph 39(3) because 14% VAT will add a huge strain to the already ailing aviation industry and because aircraft spare parts are exempted from VAT in most jurisdictions, this will therefore make Kenya aviation uncompetitive.

Committee's Comments: The proposal merits as introduction of VAT on aircraft spare parts.

3.40.3 Miscellaneous Fees and Levies Act

194. Amend part A and Part B of the Second Schedule exempt aircraft engines, aircraft spare parts and Jet A1 fuel from Import Declaration Fee and the Railway Development Levy respectively. This is to protect the aviation industry cash flows as a result of reduced sources of revenues following travel restrictions arising from COVID-19 pandemic and to preserve the loan advanced by the government towards modernization of aircraft.

3.40.4 Excise Duty Act

195. Amend tariff 2710.19.21 Kerosene type Jet A1 Fuel Per 10001 @ 20degC from Kes. 5,755.00 to Kes. 0 because the amendment will make the cost of operations expensive.

196. Amend tariff 2710.12.30 Aviation Spirit Per 10001 @ 20degC from Kes. 19,895.00 to Kes. 0 because the amendment will make the cost of operations expensive.

197. Amend tariff 2710.12.40 Spirit type Jet Fuel Per 10001 @ 20degC from Kes. 19,895 to Kes. 0 because the amendment will increase the cost of operations.

3.41 LAWYERS HUB

In their memorandum, they proposed the following amendments:-

198. Reduction of resident corporation tax rate from 30% to 25% in line with the President's directive.
199. The Period for filing tax returns should be extended because working from home and curfew has put a strain on working hours and is likely to affect compliance.
200. The first KSh. 30,000 should be tax exempt in order to create a bigger impact.
201. The should be clarity on whether the corporate tax rate of 25% applies to income accrued before 25th March, 2020.
202. There should be 100% tax relief for monthly gratuity for pensioners above the age of 60.

203. Bread, wheat, flour and agricultural products should be exempted from VAT. Alternatively, VAT should be charged on the final products and eliminate VAT on input because this will increase the price of the products.

204. Application for a tax payment plan for SMEs and small scale traders which may entail payments made in instalments and where penalties do accrue due to late filing. Taxpayers can apply for waivers of the same.

3.42 DENTONS HAMILTON HARRISON AND MATHEWS

In their memorandum dated 6th April, 2020, they proposed the following amendments to the Bill:-

3.42.1 Income Tax Act

205. Amend paragraph 2(a), Head B of the Third Schedule to reflect the proposed resident corporate income tax rate of 25%.

206. Opposed to the amendment proposed to section 15(2)(v). Due to the adverse effects of COVID-19 on the hospitality industry, the deductions should be maintained to guarantee continuity of club subscriptions.

207. Opposed to the amendment proposed to section 15(2)(ab) because it will discourage local manufacturing which is a pillar of the Big Four Agenda.

Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

208. Opposed to the proposed amendment to section 22C because it will adversely affect home ownership savings as the deductions and the exemptions for home ownership savings plans significant incentives in home ownership savings plans.

3.42.2 Tax Procedures Act

209. They were opposed to the amendment proposed to section 39B because it is not clear whether the agent will be entitled to any compensation for the additional responsibility and whether a taxpayer can decline or vary the terms of agreement.

210. They were opposed to the amendment proposed to section 65(3) because failure to specify time limits will lead to inordinate delays as the Commissioner may take years.

3.43 MR. CHARLES KAMAU

.1 In his memorandum, Mr. Kamau proposed the following amendments to the Bill:-

3.43.1 Income Tax Act

211. Proposed that the amendment proposed to the Second Schedule where investment allowance balances and tax wear and tear rates are applied on a reducing balance basis should be amended to apply on a straight line basis in order to avoid the indefinite period of time it takes to write off assets on a reducing balance and retention of small balances.
212. The wear and tear rate of 10% for other machinery that is proposed should be amended to 15% because it is too low.
213. The Bill should contain the reduced corporate income tax of 25% as announced by the President.

214. The Bill should be amended to provide for an extended period of filing the 2019/20 income tax returns by three months, from end of six months after the end of a financial year to the end of nine months after the accounting year end date.

3.43.2 Value Added Tax

The Act should be amended to reduce the bad debt recovery period from 3 years to 1 year so as to be able to recover VAT on bad debts after one year of going bad.

3.44 BDO

215. In their letter Ref: TAX/2020-098/HS dated 6th April, 2020, they were opposed to the removal of maize flour, wheat flour and other flours from the list of zero-rated items because that will make them expensive and unaffordable to most Kenyans.

3.45 ASSOCIATION OF INSURANCE BROKERS OF KENYA (AIBK)

216. In their memorandum dated 6th April, 2020, the Association was opposed to the proposal to charge VAT on brokerage services and security brokerage services citing that it will increase the cost of insurance and doing business and it will be biased on clients who choose to use intermediation.

3.46 CLARITY CONSULTING LIMITED

217. In their memorandum, they noted that some amendments like the ones to capital allowances decelerating the rate at which capital allowances claimable to buildings and machinery are of a substantive nature with no direct bearing to the COVID-19 interventions and should be dropped pending public participation. Additionally, amendments should be proposed so that private investors are given enough transition time to flexibly respond to the changes proposed which should be up to 3 years and not the four months transition period that is proposed.

Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

3.47 INSTITUTE OF SURVEYORS OF KENYA (ISK)

In their memorandum dated 6th April, 2020, the Institute proposed the following amendments to the Bill:-

3.47.1 Income Tax Act

218. Amend section (1)(b) of the Second Schedule to include the following, '*survey equipment used for provision of geodetic control and geo-referencing of cadastral boundaries*' Rate of investment allowance '*50% in the first year of use*'. Because this is one of the critical services in building and construction that is equally capital intensive.

219. Amend section (1)(a)(vii) of the Second Schedule to read as follows, 'commercial buildings including office space purchased under the Sectional Properties Act or under long term leases'. This shall allow inclusion of sectional properties or those with long term leases.

220. Amend section 6(1) of the Second Schedule to read as follows, '*where capital expenditure exceeding the Tax Laws (Amendment) Bill, 2020 125 expenditure on motor*

vehicles. Three million shillings is incurred on a motor vehicle other than a commercial vehicle that capital expenditure shall be restricted to five million shillings'. The required cap of three million for surveyors is not possible because they require heavy duty 4 wheel drives which cost more than three million.

3.48 LAW SOCIETY OF KENYA (LSK)

In their letter Ref:s/20 dated 6th April, 2020, the Society proposed the following amendments to the Bill:-

3.48.1 Income Tax Act

221. Opposed the amendment to section 15(2)(s), 2(ss) and 2(u) because it is an incentive for fund raising in the capital markets.

222. Opposed the amendment to section 15(2)(x) noting that it is an unfavorable amendment which will require incentives for investment in social infrastructure, particularly hospitals.

223. Opposed the amendment to section 133 because it is discriminatory and unconstitutional because the Constitution provides that the tax burden must be shared equally.

224. Opposed the amendment proposed to Paragraph 36, Part 1 of the First Schedule because persons who buy property for private residence to not have the intention of realizing capital gain but rather buy the property for occupation purposes.

225. Opposed the amendment proposed to paragraph 46, Part 1 of the First Schedule because the amendment will reduce the attractiveness of SEZs and hamper uptake of SEZ projects which are meant to promote trade and investment in Kenya.

     Committee's Comment: These dividends are income received from commercial activities by either a SEZ or a registered venture capital company and should therefore be taxed for equity and fairness. In addition, the SEZ companies enjoy a reduced rate of corporate tax.

226. Opposed the amendment proposed to paragraph 51, Part 1 of the First Schedule because it will discourage investment in social infrastructure particularly hospitals.
     Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

227. Opposed the amendment proposed to paragraph 53, Part 1 of the First Schedule because it will reduce the payout to retirees.
228. Opposed the amendment proposed to paragraph 55, Part 1 of the First Schedule because it will reduce the attractiveness of SEZs by foreign investors and thus hamper uptake of SEZ projects.

229. Opposed the amendment to paragraph 60, Part 1 of the First Schedule because the amendment will undermine uptake of green bonds in the country.

230. Supported the amendments proposed to Paragraphs 5(1)(a)(iii), 24(1)(c) and 24(1)(f) and proposed the following further amendment that buildings to be used for manufacture in counties outside Nairobi and Mombasa the proposed reduction of the 150% ID Allowance be deferred for at least five years to allow investors who have incurred expenditure on the basis of the 150% allowance to claim the Investment Deduction at 150%. On the expiration of this period. 75% should be claimable in the first year of use and 25% of the residual value per year on a reducing balance basis. The investment threshold should be retained at KSh. 200 M to attract local investment outside Nairobi and Mombasa.

231. Supported the introduction of investment allowance for hospital but proposed the following further amendment that with respect to hospitals developed outside Nairobi and towards encouraging investment in healthcare at the county level in view of the COVID-19 pandemic, 75% should be claimable in the first year of use and 25% of the residual value per year on a reducing basis. This incentive will also enable persons at the county level to have access to better healthcare infrastructure.

232. Opposed to the amendment proposed to Paragraph 5(1)(e), Part 1 of the Second Schedule because the proposal will detract from the strides that are being made to attract investment into education and student accommodation.

233. Supported the amendment proposed to Paragraph 6A(1), Part 1 of the Second Schedule but proposed that the current rate of 25% be retained for investments that are outside Nairobi and Mombasa to encourage investment in commercial buildings and development across the country.

234. The clarity provided in Paragraph 24(3)(e), Part V of the Second Schedule is welcome. However, the Bill seeks to reclassify the capital costs on scientific research and development from outright claiming under section 15 to deduction of capital allowances. This will negatively impact this industry at a time when it should be bolstered. They proposed that the allowances should be granted on a straight line basis rather than on a reducing balance basis for simplicity and to ensure the allowances are claimed within the projected economic life of each asset.

235. The amendment proposed under part 2 to 9 of the Second Schedule limits who can qualify for a deduction especially in cases where when undertaking a project, one entity incurs expenditure on behalf of another.

236. Insert the new corporate tax rate of 25% in paragraph 2 of the Third Schedule as announced by the President.

237. Opposed the deletion of paragraph 2(1) of the Third Schedule in order to help in the conservation of the environment.

238. Deletion of the amendment proposed to paragraph 3(d) of the Third Schedule because it will discourage foreign investment in the country.

3.48.2 Value Added Tax Act

239. They noted that purpose for defining bread in section 2 is unclear because ordinary bread has been removed from the list of zero-rated supplies.

240. Opposed the amendment proposed to section 5(2) because it will increase the cost of the goods to the end user as the taxable value of the goods will include excise duty, fees and other charges.

241. Opposed the amendment to section 31(1) because reduction to 4 years will lock out refunds that would otherwise have been valid especially noting that the stipulated time period for document retention is five years.
242. Deletion of the amendment proposed to section 43 because it is redundant and the Tax Procedures Act already requires all taxpayers to keep records.
243. Opposed the amendment proposed to Part 1, Section A of the First Schedule because it will increase the prices of the goods.
244. Opposed the amendment to the First Schedule stating that the items should be zero-rated so that they are affordable.

3.48.3 Tax Procedures Act

245. Delete the proposed new section 39A because laws should not be enacted to govern agreements entered into by between KRA and third parties. Instead, the terms of their agreement should provide for the desired conditions.

246. Delete the amendment proposed to section 65(3) because it is retrogressive and absolves KRA from accountability. It may occasion delays in issuance of private rulings as no time frame is stipulated.

3.48.4 Kenya Revenue Act

247. Delete the amendment proposed to section 5A because there is lack of clarity, the proposed amendment is likely to be subject to manipulation.

3.48.5 Miscellaneous Fees and Levies Act

248. Deletion of paragraph 21, Part A and paragraph 5, Part B of the Second Schedule because the amendments are contrary to the Government's initiative on enhancing manufacturing.

3.49 KENYA TEA DEVELOPMENT AUTHORITY (KTDA)

.1 In their memorandum, KTDA proposed the following amendments to the Bill:-

3.49.1 Income Tax Act

249. Opposed to the deletion of paragraph 50(1) of the First Schedule because it will cause an erosion on earnings to be received by retirees which will in turn reduce the savings culture.
250. Amend the proposed definition of manufacture in the Second Schedule by deleting the words 'through the national grid'. This is because the proposed amendment limits the term manufacture of electricity to the national grid whereas the manufacture of electricity for own consumption reduces the pressure from the national grid.
251. The new corporation tax rate of 25% is missing in the Third Schedule.

3.49.2 Value Added Tax Act

252. Opposed the deletion of paragraphs 26, 27, 47 and 56 of Part 1 of the First Schedule because the proposed amendments will increase the cost of inputs for farmers especially small holder tea farmers whose already eroded tea earnings will be reduced by the cost of fertilizers.
253. Opposed the deletion of paragraph 2, Part II of the First Schedule because the proposed amendment will have an adverse impact to the insurance sector as the brokerage agency services will become more expensive hence reduce the uptake of insurance.
254. Amend section 2 of the Act by expanding the definition of the word exports to include sales made out of the country, export processing zone or special economic zones through an agent or a consolidator. Additionally, a consolidator should be defined as '*an agent who sells on behalf of various parties under an agency agreement*'.

3.50 FEDERATION OF KENYA PHARMACEUTICAL MANUFACTURERS (FKPM)

In their letter Ref: fkpm/091/04/2020/CNA, dated 6th April, 2020, FPKM proposed the following amendments to the Bill:-

3.50.1 Value Added Tax Act

255. Opposed the deletion of paragraph 39(3), Part I, Section A of the First Schedule because the proposed amendment will lead to higher costs that will be transferred to consumers and increase the cost of healthcare.
256. Opposed the amendment proposed to Part C of the Second Schedule because the proposed amendment is against the Big Four Agenda.

3.50.2 Income Tax Act

257. Opposed the amendment proposed to sections 4, 5 and 15 of the Second Schedule in order to attract investors and encourage existing manufacturers to invest more and expand current operations hence creating more employment.

258. Proposed the insertion of the following new paragraph (e)(vii) immediately after paragraph (vi), '(vii) heating, ventilation and air conditioning equipment'. These equipment are a requirement of WHO for pharmaceutical manufacturers to ensure that the medicines are manufactured in a clean environment to maintain the quality and stability of the medicines.

3.51 INSTITUTE OF PUBLIC FINANCE (IPF KENYA)

In their memorandum dated 6th April, 2020, they recommended that:-

259. Fertilizers should remain in the list of exempted items in order to promote food production hence boost food security.
260. The time for the refund on tax on bad debts should be retained at five years for the case where a business is declared insolvent to avert any losses for the supplier.
261. Plants and machinery in Part 1, Section A of the First Schedule should be retained in the list of exempt items in order to cushion manufacturers of medicines and vaccines especially during this time so that they can be able to manufacture medications and vaccines.
262. The section on the publication of private rulings should be retained in the Act in order to facility efficiency in doing business. Its deletion will negate the principles of transparency and accountability.
263. The section providing a timeline for receiving a private ruling should be retained in order to facilitate efficiency in business operations.

264. Processing fee on duty free motor vehicles should be exempted from tax so as not to propagate inequalities in the society.
265. The amendment proposed in the Tax Procedures Act with regards to the Import Declaration Fee and the Railway Development Levy should be deleted noting that it will discourage investment.
266. Presumptive tax should be abolished and turnover tax reduced from 3% to 1%. They further proposed that income bands for individuals liable for turnover tax should be revised from KSh. 500,000 to KSh. 5,000,000. This will ensure that small businesses are protected from the effects of COVID-19. They also recommended that administrative costs incurred by businesses in the filing of these taxes should be evaluated.
267. Removal of provisions introducing decelerated rates for capital allowances because they have to a great extent eroded the proposed reduction in corporation tax for resident companies.
268. There should be equity and fairness when making reductions in the individual tax rates in order to ensure that all citizens regardless of their income enjoy the benefits.

3.52 CAPITAL MARKETS AUTHORITY (CMA)

In their letter Ref: CMA/ADM/CONF/5 dated 6th April, 2020, the Authority proposed the following amendments to the Bill:-

269. Opposed the removal of tax exemption on infrastructure bonds and green bonds in order to attract investors to invest in the bonds due to other competing investments.

270. Opposed the removal of corporate tax incentives for newly listed companies as proposed in paragraph 2(c), (d) and (e) of the Third Schedule of the Income Tax Act and further proposed that the issued share quantum should be reduced from fourty percent to ten percent. This will encourage companies to list on the NSE.

271. Opposed the increase in WHT rate for non-residents from 10% to 15% as it will make it hard for Kenya to attract foreign direct investments especially in the era of the Africa Continental Free Trade Area where companies can set base in countries with advantageous corporation tax regime but still have access to the wider Africa market including Kenya.

272. Opposed to the introduction of VAT to stock exchange brokerage services as it will reduce investment in Government securities, reduce investment in shares and reduce liquidity and suppress activity in the stock market.

273. Opposed the reduced income tax exemptions for pooled funds or other kind of fund consisting of retirement schemes because the funds need to be encouraged to grow so that the ultimate beneficiaries who are retirees can derive the most out of them.

3.53 CLEAN COOKING ASSOCIATION OF KENYA

274. In their letter dated CCAK/048/pa/DN/2020 dated 7th April, 2020, the Association sated that taxable goods locally purchased or imported by manufacturers or importers of clean cooking stoves for direct and exclusive use in the assembly, manufacture or repair of clean cook stoves; inputs or raw materials locally purchased or imported by manufacturers of clean stoves; stoves, ranges, grates, cookers (including those with subsidiary boilers for central heating), barbecues, braziers, gas-rings, plate warmers and similar nonelectric domestic appliances and parts thereof or iron or steel; and plastic bag biogas digesters, biogas, leasing of biogas producing equipment should remain tax

exempted. Further, the supply of LPG including propane should remain zero-rated. They proposed that technical denatured ethanol and sustainable fuel briquettes should be added to the zero-rated list. This is to encourage use of clean sources of fuel in the country.

3.54 MS. LYDIA DA COSTA

275. In her memorandum, Ms. Da Costa noted that the cost of living had gone so high and proposed that VAT rate should be reduced to 1%, the price of the trade license reduced, the sin tax that was impossed on bottled drinking water removed because it is not a luxury, some of the taxes paid by Kenya Power and Lighting Company reduced in order to make electricity affordable and electronics should be tax free.

3.55 KENYA UNION OF SAVINGS AND CREDIT CO-OPERATIVES LIMITED (KUSCCO)

In their memorandum, KUSCCO proposed the following amendments to the Bill:-

3.55.1 Income Tax Act

276. They supported the 100% tax relief for persons earning KShs. 24,000 and below but noted that it is important to have a 5% reduction across all PAYE tax bands because everyone is feeling the effects of COVID-19.
277. Noted that the reduction of corporate tax from 30% to 25% had not been captured in the Bill.

     Committee's Comment: It was noted that the rate for Corporation tax had been omitted in the Bill

3.55.2 Value Added Tax Act

278. Supported the reduction of VAT rate from 16% to 14% because it will reduce the price of goods and services. They however stated that it was important for KRA to expedite the process of making VAT refunds so as to offer some relief to businesses especially exporters.

3.55.3 Tax Procedures Act

279. They were opposed to the deleting of the time limit within which the Commissioner is supposed to issue a private ruling noting that it will create uncertainty and lack of clarity in tax laws and may lead to tax disputes between taxpayers and KRA.

3.55.4 Miscellaneous Fees and Levies Act

280. Supported the amendment proposed to section 7(2A)(a) because the amendment will enable the Government to get additional revenue since it reduces the number of goods exempted from Import Declaration Fee.

3.56 PRICEWATERHOUSECOOPERS LIMITED (PWC)

In their memorandum dated 6th April, 2020, PWC proposed the following amendments to the Bill:-

3.56.1 Income Tax Act

281. Deletion of amendments proposed to Sections 15(2)(ab), 15(2)(h), 15(2)(s), 15(2)(ss), 15(2)(u), 15(2)(v) and 15(2)(x) because the proposals are wide ranging, do not relate to the COVID-19 emergency and will have the effect of increasing tax liabilities. It is important to have proper consultation and debate with the relevant stakeholders and for the Government to provide a clearer explanation as to why such significant tax measures that will increase the cost of doing business should be included in the Bill.

282. Deletion of the amendment proposed to Section 22c because it is important to have proper stakeholder engagement before the amendment is made and it goes against the Big Four Agenda.

283. Deletion of the amendments proposed to Paragraphs 4, 7, 9, 18, 22, 25, 28,29, 30,31,32, 33, 34, 35, 36, 40, 41, 44, 45, 46, 47, 50, 51, 52, 53, 55 56, 60 Part A and Part II of the First Schedule because such significant tax measures should not be included in an emergency legislation but should rather go through the normal Finance Bill or the anticipated overhaul of the Income Tax Act to have wider public participation.

284. Deletion of the amendments proposed to the Second Schedule because the overhaul is a major shift in tax policy which will lead to an increase in taxes paid by corporates and should be subjected to wider public participation.

285. Deletion of the amendment proposed to Paragraph 3(d), Head B of the Third Schedule because the proposed amendment will increase the effective tax rates for foreign owned companies hence discourage foreign investment in the country.

286. Amend paragraph 2(a)(viii) of the Third Schedule to read as follows, "*For the year of income 2020 and each subsequent year of income 5 shillings in each 20 shillings*". This will provide for reduction in corporate tax for companies from 30% to 25% in line with the Presidential Directive of 25 March 2020.

287. Amend paragraph 2(b) viii of the Third Schedule to read as follows, "*For the year of income 2020 and each subsequent year of income 6.5 shillings in each 20 shillings*". This will provide for reduction of corporate income tax from 37.5% to 32.5% for non-resident companies with permanent establishments in Kenya who are equally affected by the Covid-19 pandemic.

288. Amend the Act by deleting Section 12(c)(3)(b) because it introduces turnover tax to Micro, Small and Medium Enterprises (MSME's) rendering professional, management and training services to shield them from economic shocks.

Committee's Comment: The turnover tax regime is intended for persons in the informal sector who have challenges in keeping records. Professional firms do not fall under this category and bringing them under Turnover Tax is tantamount to changing them from formal to informal which is retrogressive.

289. Rewording Section 12B(3) of the Act to read as follows, "a) the fringe benefit tax charged prior to 1st January, 1999 shall be due and payable on or before 10th January, 1999. The fringe benefit tax charged on or after 1st April 2020 shall be due and payable on or before 10th January 2021". This proposal seeks a deferral of the fringe benefit tax and will improve the opportunities for employers to minimise costs and thus sustain their businesses to be able to pay salaries and safeguard jobs which are at risk.
290. Amend the proposed new Second Schedule paragraphs (a)(ii) and 1(b)(i) to maintain the rate of capital allowance for buildings and machinery used for manufacture i.e. 100% in the first year of use. The proposal seeks a reduction of the allowances that can be claimed immediately and that which are being deferred. Investors will pay higher taxes.
291. Introduction of a capital allowance on machinery used for heating, ventilation and air conditioners used by pharmaceutical manufacturers to the Second Schedule paragraph 1(b)(i)

3.56.2 Excise Duty Act

292. Deletion of the amendment proposed to Paragraph 13, Part A of the Second Schedule because it will discourage investors/development partners willing to invest in SOFA projects from entering into such arrangements with the Government.

293. Amend the Paragraph 1, Part I of the First Schedule by deleting the words "*imported gas cylinder 35%*". This proposal will provide for a temporary removal of Excise Duty on importation of gas cylinders accordingly assisting local manufacturers of medical gases to access gas cylinders at a lower cost and meet the current high demand.

294. Introduce the following new paragraph in Part A of the Second Schedule, "*Excisable goods imported or purchased locally for direct use in the manufacture of face masks*". This proposal will provide for removal of excise duty on face masks and will enable low cost local manufacture of face masks to meet the current high demand.

3.56.3 Miscellaneous Fees and Levies Act

295. Deletion of the amendments proposed to Paragraphs xxi, xxia, and xxiii, Part A of the Second Schedule because it will deter the Government's SEZ initiative which is meant to spur investment in Kenya.
296. Introduce the following new paragraph in Part A and B of the Second Schedule, "*Materials for direct use in the manufacture of face masks*". This proposal will provide for removal of IDF and RDL on face masks and will enable low cost local manufacture of face masks to meet the current high demand.

3.56.4 Value Added Tax Act

297. Deletion of the amendments proposed to Part 1, Section A of the First Schedule because the proposals will have a significant shift in tax policy which has an adverse effect on the Big Four Agenda.
298. Deletion of the amendments proposed to Part 1, Section A of the First Schedule and Part A of the Second Schedule because the proposed change from zero rated to standard rate will have a significant cashflow impact on businesses.
299. Opposed the insertion of new paragraph 21A and deletion of amendments proposed to paragraph 39(3), Part 1, Section A of the First Schedule and paragraphs 13A and 15 Part A of the Second Schedule because this will increase the prices of the said commodities making them unaffordable to most Kenyans.
300. Introduce the following new paragraph in Section A, Part I of the First Schedule, "*Materials imported or purchased locally for direct use in the manufacture of face masks*". This proposal will provide for removal of VAT on face masks and will enable low cost local manufacture of face masks to meet the current high demand.
301. Delete the amendment proposed to paragraph 39(3), Part 1, Section A to the First Schedule and Part C of the Second Schedule or introduce a new Schedule to the Act with a concessionary VAT rate of not more than 6% on supply of medicaments. The amendment will lead to higher cost of medicaments which may reduce sales and ultimately lead to laying off of employees.

3.55.5 Tax Procedures Act

302. Insertion of a new provision immediately after Section 33(5), "(5) Provided that the interest payable shall not apply in the case of a taxpayer where such an application has been made on account of material disruptions to the taxpayer business in the year of income 2020". This proposal will assist taxpayers manage the limited cash flow to sustain their livelihoods and business during this period of the Covid-19 pandemic.
303. Expunge all proposed amendments not related to Covid-19 pandemic. Given the urgency to have this Bill assented into law, this proposal will allow for proper public participation and deliberation on the matters contained therein.

3.57 PKF TAXATION SERVICES LIMITED

In their letter Ref: PKFTAX/NA-1/2020/mkm/jm dated 6th April, 2020, they proposed the following amendments to the Bill:-

3.57.1 Income Tax Act

304. Deletion of the amendment proposed to Section 15(2)(ab) because The purpose of electricity rebate was to ensure that manufacturers are cushioned from heavy cost of electricity with a view to lower their cost of production thus making Kenya competitive in manufacturing.

305. **Committee's Comment:** This will lead to loss of much needed revenue to provide basic services by the Government.

306. The proposed new Second Schedule should be amended to retain 150% investment deduction for entities that invest over KSh. 1 billion in new investments in qualifying industries/sectors because the global manufacturing and supply chain have been disrupted by the Covid-19 pandemic necessitating diversification to reduce overreliance especially on China.

Value Added Tax Act

307. The proposed amendment to Section 5(2)(aa)(i) should be deferred to a future date because The current VAT model for petroleum products is designed to alleviate the unintended inflationary tendencies. The proposed amendment, if implemented immediately. will automatically erode the benefits intended by the reduction of VAT rate from 16% to 14%.
308. Opposed the insertion of new paragraphs 21A and Amendment to paragraph 39(3), Part, Section A of the First Schedule because these amendments are likely lead to increase of prices for these basic items as producers/importers will automatically pass on the cost of unclaimed input VAT to consumers.
309. Deletion of the amendment proposed to Paragraphs 26 and 94 of Part 1, Section A of the First Schedule because VAT charges on fertilisers and pesticides will lead to an increase in produce prices and add to inflationary pressures as farmers will pass on the added cost to the end-consumers.
310. Deletion of the amendment proposed to Paragraph 24, Part II, Section A of the First Schedule because tourism has been hard hit by the COVID-19 pandemic and introducing VAT on the same will make the services costlier and less attractive to the consumers.

3.58 ANJARWALLA AND KHANNA LLP

In their letter Ref: DNG/KKN/GEN dated 6th April, 2020, they proposed the following amendments to the Bill:-

3.58.1 Income Tax Act

311. Deletion of the amendment proposed to paragraph 53 of the First Schedule in order to protect the economically vulnerable group.

312. Delete the amendment proposed to Paragraph 3(d), Head B of the Third Schedule because the proposed increase in withholding tax applicable on non-resident withholding tax may lead to a shrinkage in the foreign direct investment that Kenya relies on to grow its economy, as foreign investors will shy away from Kenyan equities listed and private entities.

313. Deletion of the provision that provides for exemption from tax for interest income from green bonds. The policy motive of the current exemption status on Green Bonds is noble and justified in the circumstances but sufficient time ought to be given before a critical mass of investors leverage this exemption.

314. Delete the amendments proposed to paragraphs 46 and 55 of the First Schedule because the proposed amendments may have an adverse impact on industrialization, the attractiveness of Kenya's SEZ regime and the meeting of Kenya's export goals.

Committee's Comment: These dividends are income received from commercial activities by either a SEZ or a registered venture capital company and should therefore be taxed for equity and fairness. In addition, the SEZ companies enjoy a reduced rate of corporate tax

315. Delete the amendments proposed to paragraph 35 of the First Schedule because the abolishment of these exemption will greatly damage long-term savings through acquisition of a home, and will go against the President's Big-4 agenda.

316. Delete the amendment proposed to Paragraph 2(l) of the Third Schedule (Head B).

317. Delete the amendment proposed to Paragraph 51, Part A of the First Schedule because the change of the regime will erode investor confidence.

3.58.2 Value Added Tax Act

318. Delete the amendment proposed to Paragraph 94, Part 1, Section A of the First Schedule because the withdrawal of exemption for VAT of a Transfer of Business as a Going Concern will increase transaction costs of the transfer by at least 16% and could be a barrier for foreign investors who would like to acquire existing businesses in Kenya.
319. Delete the amendments proposed to Paragraphs 29, 30 and 45, Part 1, Section A of the First Schedule because the high cost of power will significantly impair implementation of large-scale infrastructure projects in the country, the growth of key sectors such as manufacturing which depend on reliable and affordable power, and will stifle investor confidence.

320. Amend the proposed amendment to paragraphs 52 and 53B, Part I, Section A of the First Schedule to provide that plastic biogas digesters, biogas, and leasing of biogas producing equipment should be zero rated. This is to promote the use of biogas as an alternative fuel and encourage recycling within the country, where there is an urgent need for solutions in the solid waste management space.

321. Delete the amendment proposed to Paragraphs 26, 43, 47, 90, 93, 97, Part 1, Section A of the First Schedule because Zero rating the items will reduce shelf prices of the goods.

322. Delete the amendment proposed to Part C of the Second Schedule in order to encourage local manufacture of medicines and vaccines.

323. Expunge all proposed amendments not related to Covid-19 pandemic in order to allow adequate opportunity for public participation, in line with the provisions of the Constitution of Kenya.

    Committee's Comment: The measures are necessary to ensure that the Government increases revenue yield.

3.59 KPMG ADVISORY SERVICES LIMITED

In their memorandum dated 6th April, 2020, KPMG proposed the following amendments to the Bill:-

3.59.1 Income Tax Act

324. Delete the amendment proposed to Section 15(2)(ab) in order to support the manufacturing sector.
325. **Committee's Comment:** This will lead to loss of much needed revenue to provide basic services by the Government.
326. Delete the amendments proposed to Sections 15(2)(s), 15(2)(ss), 15(2)(u) as it will increase the cost of companies looking to list or float shares at the NSE.
327. **Committee's Comment:** Agreed to
328. Delete the amendment proposed to Section 15(2)(x) because in the post Covid-19 period, the country will look to the private sector to help improve investments in the health sector and the tax deductions will be important to encourage such contributions.
329. Delete the amendment proposed to Section 22c as it will be a blow to the government's Big 4 Agenda of providing affordable housing as it provides one channel for citizens to save for the purchase of a house.
330. Delete the amendment proposed to Paragraph 51, Part A of the First Schedule because the removal of the exemption which was a key attraction for Kenyan bonds will make them less attractive to foreign investors.
331. Delete the amendment proposed to Paragraph 53, Part A of the First Schedule in order to cushion the low-income employees during the COVID-19 period and the subsequent recovery period.
332. Delete the proposed amendment to Paragraph 2(e), Head B of the Third Schedule in order to encourage companies to continue listing on the NSE.
333. Delete the amendment proposed to Paragraph 3(d), Head B of the Third Schedule because the proposed change will make it less attractive for businesses to set up locally, a situation that is made worse by the coming into force of the Africa Continental Free Trade Area which will make it easier for companies to set up in countries with favourable income tax regime but have access to markets across Africa.
334. Opposed the insertion of new sub-paragraph (q) immediately after sub-paragraph (p) under Paragraph 3, Head B of the Third Schedule because the proposed amendment may increase the cost of doing business as transport is a significant expense for many businesses.
335. Introduction of the following new paragraph 5(4)(h), "*Telephone expenses and internet facilities provided by or paid for by an employer on behalf of employees working remotely or from their homes*". This proposal seeks to exempt from employees, tax on airtime and internet paid for by employers and will allow for seamless transition to working from home which is critical in enforcing social distancing as one of the measures to fight the spread of Covid-19.
336. Introduction of the following new paragraph 15(2)(ac), "*Cash or the cost of materials and equipment donated to hospitals or other public institutions, including the COVID-19 Emergency Fund towards the efforts to combat the Covid-19 pandemic*". This proposal will allow deductions against taxable income, any donations of cash or equipment towards the fight of Covid-19 and will encourage the mobilization of resources during this time.
337. Introduction of the following new provision under Section 15(2)(a), "*Provided that provisions for bad debts and bad debts written off by banks during the period of two years from 1 April 2020 shall be deductible. Any debts that are subsequently recovered*

shall be deemed to the taxable income in the year the recovery is made". This provision will allow tax deduction of bad debt provisions made by banks as result of as a result of Covid-19.

338. Amend item (vii) of Paragraph 2(b) of the Third Schedule to the ITA to read as follows, "*For the year of income 2020 and each subsequent year of income, KES 5 for each KES 20*". This will give effect to the incentive announced by the president to reduce the corporation tax rate to 25% to cushion businesses against the impact of Covid-19.
339. Amend Paragraph 2(b) Part B of the Third Schedule to include the following new sub-sections 3 and 4, "*For the year of income 2020 and each subsequent year of income the rate shall be six-half shillings in every twenty shillings chargeable to tax*". These companies are experiencing similar challenges of uncertainties in their business and as such they also need to feel that the Government appreciates their contribution to exchequer.
340. Introduce the following provision to Paragraph 9 of the Third Schedule, "*Provided that persons registered under turnover tax shall not be subjected to any other tax under this Act*". This proposal will reduce the withholding tax rates for businesses with an annual turnover of KES 50 million and below.

3.59.2 Value Added Tax Act

341. Opposed to the Insertion of new paragraph 21A and proposed the deletion of amendments proposed to paragraph 39(3), Part 1, Section A of the First Schedule and paragraphs 13A and 15, Part A of the Second Schedule because exemption of the items will make them expensive.
342. Delete the amendment proposed to Section 5(2)(aa)(i) because it will lead to higher fuel prices.
343. Delete the amendment proposed to Paragraph 26, Part 1, Section A of the First Schedule as it will increase the cost of food.
344. Delete the amendment proposed to Paragraph 27, Part 1, Section A of the First Schedule because the amendment creates uncertainty as to what will be referred to as machinery for the purposes of manufacture. Therefore, this creates ambiguity as to which machinery would now be subject to VAT.
345. Delete the amendment proposed to Paragraph 30, Part 1, Section A of the First Schedule because it will increase the cost of production of the power required in the factories and in Kenyan homes. This significant cost in the long run will have a negative impact as it will increase the prices of consumer products.
346. Delete the amendment proposed to Paragraph 45, Part 1, Section A of the First Schedule because the zero rating of solar generation equipment and deep cycle solar batteries enables the vast majority of rural homes gain access to conventional electricity connections. It also encourages telecommuting in remote areas.
347. Delete the amendments proposed to Paragraphs 47 and 90, Part 1, Section A of the First Schedule because this amendment coupled with the introduction of VAT on tractors used in the large-scale farming will increase the cost of producing agricultural products.
348. Delete the amendment proposed to Paragraph 55, Part 1, Section A of the First Schedule because the proposal will negatively impact the housing agenda which continues to attract a pool of international investors.

349. Delete the amendment proposed to Paragraph 62, Part 1, Section A of the First Schedule because it will adversely affect the tourism industry which is currently crippled by the Covid-19.

350. Delete the amendment proposed to Paragraph 94, Part 1, Section A of the First Schedule because as a consequence of the Covid-19 pandemic, businesses may require to restructure post-Covid period. This proposal will significantly increase the cost of such restructuring.

351. Introduce a new Paragraph 19 under Part A of the Second Schedule, "*Personal protective equipment, sanitizers, masks and related materials and equipment recommended for use in the fight against Covid-19*". This proposal will zero-rate personal protective equipment, sanitizers, and soap, to ensure that the cost of these purchases remains reasonable and affordable to more people.

352. Addition of the supply of maize (corn) flour, cassava flour, and wheat or meslin flour and maize flour to Part A of the Second Schedule. This will reduce the costs to the majority of Kenyans during the Covid-19 pandemic.

3.59.3 Tax Procedures Act

353. Amend Section 65(3) by deleting the words "*forty-five*" and replacing with the word "*sixty*" because the tax law should be certain, and taxpayers should have a definite time within which to expect the Commissioner's ruling so that they can plan their affairs.

354. Delete the amendment proposed to Section 69 because the proposal takes away the benefit that was intended for taxpayers to rely on published rulings to structure their business and settle similar disputes with KRA.

355. Introduction of the following new provision to Section 33(5), "*Provided that no interest shall be due and payable on any extensions granted during the two-year period with effect from 1 April 2020*". The proposal will exempt from interest, late tax payment as a result of Covid-19 and allow businesses to recover to their pre Covid-19 level.

356. Introduction of the following new Section 37C, "**37C.** Notwithstanding any other provision of this Act and considering the difficulties facing businesses as a result of the COVID-19 pandemic, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest for a period of six months with effect from 1 April 2020". As a result of the pandemic, many employees are now operating remotely or from home with restricted access to documentation which is required during tax audits and will not be able to adequately respond to KRA requests for supporting documents resulting in assessments which would ordinarily be resolved if the taxpayers had access to their records. This will defer tax audits.

3.59.4 Excise Duty Act

357. Replace Paragraph 1 of Head II as follows, "*Excise duty in fees charged for money transfer services by banks, money transfer agencies and other financial service providers shall be ten percent of their excisable value*" and Replace Paragraph 2 of Head II as follows, "*Excise duty in fees charged for money transfer services by banks, money transfer agencies and other financial service providers shall be fifteen percent of their*

excisable value". These proposals will reduce the excise duty on money transfer services by banks, consequently lowering the costs associated with the use of such services and encouraging the adoption of the money transfer services.

3.60 KENYA ASSOCIATION OF MANUFACTURERS (KAM)

In their memorandum, KAM proposed the following amendments to the Bill:-

3.60.1 Income Tax Act

358. Delete the word "transport" under the amendment proposed to section 10(1) because manufacturers rely on transport services to trade. Therefore, the proposal will have direct costs to manufacturers; it will increase the costs of both import and export to manufacturers.
359. **Committee's Comment:** The justification to delete the word "transport" is not clear because the proposed amendment was aimed at excluding transportation by air and sea from taxation but not any other services.

360. Delete the amendment proposed to section 15(2)(ab) because the retainment of the electricity rebate will allow sustainability and attract Foreign Direct Investment more especially with the current Covid-19 crisis where most companies are expected to operate at low capacity.
     Committee's Comment: This will lead to loss of much needed revenue to provide basic services by the Government.

361. Delete the amendment proposed to section 15(2)(s) because this amendment will create additional cost to companies planning to offer their shares for general public thus diminishing investments and trade.

362. Delete the amendment proposed to section 15(2)(u) because rating agencies support assessments of risks and financial strength of companies. They contribute to the growth of investor confidence and should be encouraged through allowing deducting of costs to such companies.

363. Delete the amendment proposed to section 15(2)(x) and introduce a new provision to provide an amount limit for seeking approval for expenditure on construction of public schools, hospitals, roads as follows, "*Provided a person shall seek prior approval from the Cabinet Secretary responsible for Finance of expenditure of a capital nature incurred by a person on construction of a public school, hospital, road or any similar social infrastructure amounting to 20 million Kenya shillings and above*". The proposed amendment will discourage private sector spending on social projects.

364. Delete the following items from the proposed amendment to the First Schedule, interest on savings account held with Kenya Post Office Savings Bank, income of a registered home ownership savings plan, income of NSSF, dividend received by a registered Venture Capital company, developers and operators licensed under SEZ Act, interest income accruing from infrastructure bonds, bonus, overtime & terminal dues paid to employees who do not fall under taxable bracket and dividend paid by SEZ to non-

resident persons. Introduce the following additional amendment to ensure that such Agencies do not increase their fees arbitrarily to raise revenue and use the surplus amounts for non-priority issues as follows; "*Provided that revenue generating powers of the Agencies shall not shall not be exercised in a way that prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour*".

365. Delete the proposed amendment to paragraph 35 of the First Schedule and defer/suspend implementation of Capital Gains Tax to avert the negative impact of Covid-19 because Personal houses are not investments and therefore subjecting them to capital gain tax will be unfair.

366. Delete the proposed overhaul of the Second Schedule because it will negatively impact cash flows, employment, and discourage foreign direct investment.

367. Amend paragraph 2(a), Head B of the Third Schedule by inserting "*25%*" immediately after the word "*income*". The Government had reduced the rate to 25% for the financial year starting 1st January 2020 to cushion businesses especially during the Covid-19 crisis.

368. Delete the proposed amendment to paragraph 3(d), Head B of the Third Schedule because it will increase effective tax rate for foreign owned companies and will work against foreign investment appetite.

369. Delete the amendment proposed to Paragraph 5(d)(i), Head B of the Third Schedule because the proposal seeks to effectively remove privilege offered to newly listed companies. This disincentivises listing with the NSE.

370. Amend section 4, 5 and 15 of the Second Schedule by introducing the following new clause (e)(vii) after (vi), "*Heating, Ventilation and Air Conditioning Equipment*". The items are a requirement by the WHO for pharmaceutical manufacturers to ensure that the medicines are manufactured in a clean environment.

371. Delete the amendment proposed to section 35(1) or exclude digital advertising fees from the amendment. Imposing a withholding tax on sales and marketing services will only serve to increase the tax burden on Kenyan manufacturers.

372. **Committee's Comment:** The tax will be paid by a non-resident person who doesn't require to be physically present in Kenya. This is meant to widen the taxation base.

373. Delete the amendments proposed to paragraphs 26, 27, 45, 47, 48, 52, 52A, 52B, 53, 55, 93, 94, 107. Agricultural and manufacturing products should not have VAT imposed on them due to the significance of the sectors to the Kenyan economy especially with the Covid-19. Biogas production is key in reducing Greenhouse gas emission. It is clean fuel and imposition of VAT on its production will increase the cost for Biogas and Biogas access for the Wananchi.

3.60.2 Value Added Tax Act

374. Delete the amendment proposed to section 2 because ordinary Bread is an essential commodity and should be considered as an essential/basic food item.

375. Delete the amendment proposed to section 5(2)(aa)(i) because the proposed amendment seeks to expand the scope and to have taxable value to include excise duty, fees and other charges and effectively, cost of fuel will go up equivalent to 8% of Excise duty and other fees/charges.

376. Amend section 16(1) by deleting the word "*court*" because there are other mechanisms of dispute resolution such as Tax Appeal Tribunals, Arbitration and other Alternative dispute resolution. Non-recognition of other disputes resolution mechanisms and only recognising courts will be unfair and discriminative.

377. Delete the amendment proposed to Paragraphs 40,43,56,65, and 66, Part 1, Section A of the First Schedule because fishing nets are primary tools for Blue economy enhancement and mosquito nets are primary tools in the fight against vector borne diseases.

378. Delete the amendment proposed to paragraph 39(3), Part 1, Section A of the First Schedule and insert the following new paragraphs under the Second Schedule "*input and raw material supplied to manufacture agriculture pest control products and agriculture pest control products*". The proposed amendment will impose VAT on manufacture of pesticides and agricultural pest control products. This will increase the cost of pest control to farmers.

379. Repeal the amendment proposed to Part C of the First Schedule because the proposed amendments in the Bill will increase costs of locally manufactured medicine thus increasing healthcare costs and make local manufacturing less competitive.

380. Delete the amendment proposed to paragraph 21, Part 1, Section A of the First Schedule because the proposed amendment will increase consumer prices for LPG that will negate the general Government policy to reduce taxation of green energy by motivating charcoal usage.

381. Delete the proposed amendment to remove milk and cream from the list of zero-rated items because there is local capacity for production of milk and cream and therefore the products should be zero rated to encourage local manufacture, and to lower costs for consumers.

382. Delete the proposed amendment to paragraphs 1(a) and (b), Part I of the First Schedule because this proposal will increase the costs and will cause further shrinkage of demand. This will lead to decline in growth and job losses within the industry.

383. Introduce the following new paragraph under the Second Schedule, Zero Rating, Part A – Zero Rated Supplies; "*The supply of flours of cassava, millet or sorghum or any flour containing 10% or more in weight of flours of cassava, millet or sorghum*" because traditional sources of carbohydrates from grains have been marred with supply and production constraints.

3.60.3 Tax Procedures Act

384. Delete the amendment proposed to section 65(3) because the proposed removal of this clause may deprive taxpayers getting decisions in a timely manner. It is also part of the fair administration requirements of Government agencies.

3.60.4 Miscellaneous Fees and Levies Act

385. Delete the proposed amendment to Paragraph (ix), Part A of the Second Schedule because There exists no economic benefit derived from samples and therefore the current provisions should be maintained.

386. Delete Section 8(A) because the provisions on Anti-Adulteration were passed to allow manufacturers of Paints and Resins to claim refund of Adulteration Levy on kerosene used for manufacturing. However, the Customs Act has no reference of Adulteration Levy and therefore KRA does not have mechanisms to refund the same.

Stamp Duty Act

387. Introduce new provisions suspending provisions relating to property under the Stamp Duty Act for one year because the COVID-19 pandemic has and will continue to impact manufacturers under the building, mining and construction sector and to promote further investments to the sector and economy.

Committee's comment : There will be a huge revenue loss for the Government.

3.61 VIVA AFRICA CONSULTING LLP

In their memorandum dated 6th April, 2020, Viva Africa proposed the following amendments to the Bill: -

3.61.1 Income Tax Act

388. Deletion of amendments proposed to subsections (2)(s), 2(ss), and (2)(u) of Section 15 since they will disincentivize fund raising in the capital markets which has had low uptake for IPOs and corporate bonds market in the last 5 years. The amendments will lead to increased costs of rating of securities for the purpose of listing and fund raising through the issue of shares, debentures or similar securities offered for purchase to the general public.

389. Deletion of amendment proposed to subsection (2)(x) of Section 15 since it seeks to disincentivize investment in social infrastructure, particularly hospitals, which is critical given the current socio-economic crisis resulting from the covid-19 pandemic.

390. Further amendment to sub-section (6) of Section 133 to clarify the correct provision being referred to since it refers to a non-existent paragraph 24E in the Second Schedule.

391. Deletion of the amendment proposed to Paragraph 36 of the First Schedule Part I because persons buy private residence property for subsistence purposes and not to realise capital gain. Further, the taxing of the transfer of land whose value is less than KSh. 3,000,000 will have adverse consequences on disposable income of low-income property owners.

392. Deletion of the amendment proposed to Paragraph 46 of the First Schedule Part I as it will adversely impact the attractiveness of Special Economic Zones (SEZ) and will hamper the uptake of SEZ projects.

393. Committee's Comment: These dividends are income received from commercial activities by either a SEZ or a registered venture capital company and should therefore be taxed for equity and fairness. In addition, the SEZ companies enjoy a reduced rate of corporate tax.

394. Deletion of the amendment proposed to Paragraph 51 of the First Schedule Part I because it will be unfavourable particularly in the current socio-economic crisis resulting from the Covid-19 pandemic.

395. Deletion of amendment proposed to Paragraph 53 of the First Schedule Part I since reduce the pay-out to retirees.

396. Deletion of amendment proposed to Paragraph 55 of the First Schedule Part I because it will adversely impact the attractiveness of SEZs to foreign investors and hamper the uptake of SEZ projects.

397. Deletion of amendment proposed to Paragraph 60 of the First Schedule Part I because the provision has been short lived and its removal would undermine the uptake of green bonds in Kenya.

398. Further amendments to support Paragraph 1(a)(i) of the Second Schedule by clarifying the definition of "hotel" and whether other buildings required for the functioning of a hotel (e.g. staff quarters), would be included in the allowance.

399. Amendment to Paragraph 1(a)(ii) of the Second Schedule to provide that for buildings to be used for manufacture in counties outside Nairobi and Mombasa, 75% should be claimable in the first year of use and 25% of the residual value per year on a reducing balance basis; and to retain the investment threshold at KShs.200 Million to enhance growth at county level.

400. Amendment to Paragraph 1(a)(iii) of the Second Schedule to provide that for hospitals developed outside Nairobi, 75% should be claimable in the first year of use and 25% of the residual value per year on a reducing balance basis to, in view of the Covid-19 pandemic, encourage investment in the healthcare at county level and to advance the Big-4 agenda on healthcare.

401. Deletion of amendment proposed to Paragraph 1(a)(vi) of the Second Schedule since it increases the time that it will take investors to recoup their capital expenditure. It will adversely affect the attractiveness of investments into education and student accommodation whose demand is currently increasing demand with insufficient supply. The proposal also goes against the Big-4 agenda on education.

402. Amendment to Paragraph 1(a)(vii) of the Second Schedule to provide for retention of *the rate of 25% for investments that are outside Nairobi and Mombasa*. This is to encourage investment in commercial buildings across the country.

403. Deletion of amendment proposed to Paragraph 1(b)(i) of the Second Schedule since it will spread the allowance over a longer period therefore negatively impacting cash flow. It will result in reduced investment.

404. Deletion of amendment proposed to Paragraph 1(b)(v) of the Second Schedule because it will be disadvantageous to owners of heavy earth moving equipment.

405. Deletion of amendment proposed to Paragraphs 1(b)(vi) and 1(b)(vii) of the Second Schedule.

406. Deletion of amendment proposed to Paragraph 1(b)(viii) of the Second Schedule because the Covid-19 pandemic has necessitated remote working, placing great reliance on existing telecommunication infrastructure. This necessitates investment in the sector.

407. Deletion of amendment proposed to Paragraph 1(b)(ix) of the Second Schedule since it will hamper efforts to attract investment to the film industry.

408. Deletion of amendment proposed to Paragraphs 1(b)(xii) and 1(d) of the Second Schedule.

409. Deletion of amendment proposed to Paragraph 1(e) of the Second Schedule as it will negatively impact this industry at a time when it should be bolstered.

410. Further amendments to Paragraph 6 of the Second Schedule to exclude persons in the business of hiring and sale of vehicles from the limit to cushion the industry.

411. Further amendments to Paragraph 9 of the Second Schedule to allow allowance for investments where the costs can be supported regardless of the person that incurred them.

412. Further amendments to item (viii) of paragraph 2(a) of the Third Schedule Head B to include the corresponding corporation tax rate.

413. Deletion of amendment proposed to Paragraph 2(l) of the Third Schedule Head B because it has been less than a year since the introduction of the provision that has since helped in the conservation of the environment.

414. Deletion of amendment proposed to Paragraph 3(d) of the Third Schedule Head B because it will discourage foreign investments in the country.

415. Further amendments to sub-paragraph (q) of Paragraph 3 of the Third Schedule Head B to provide supplementary incentives aimed at growing local businesses.

3.61.2 Value Added Tax

416. Deletion of amendment proposed to Section 2 because it is unclear what the purpose of including the definition is since ordinary bread has been removed from the Second Schedule.

417. Deletion of amendment proposed to item (i) under Section 5(2) Paragraph (aa) since it will increase in the cost of the goods to the end user.

418. Deletion of amendment proposed to Section 31(1) because it shortens the period to which a refund for tax on bad debts can be made therefore locking out refunds that would otherwise have been valid. Stipulated time period for document retention is five (5) years.

419. Deletion of amendment proposed to Section 43(1) as it is redundant. The Tax Procedures Act already requires all taxpayers to keep records.

420. Deletion of amendment proposed to the First Schedule Section A Part 1 to retain the items under the zero-rated list as the resultant effect of the proposal will be to increase production cost and consequently increase their prices.

421. Further amendments providing for the zero-rating of items under Paragraphs 26, 27, 29, 30, 39(3), 40, 45, 47 of the First Schedule Section A Part 1 because their subjection to tax will directly impact the economic livelihoods of Kenyans by raising the cost of living. The items are also critical to the recovery of the economy.

422. Further amendments providing for the zero-rating of items under Paragraphs 48, 52, 52A, 52B, 53, 55, 62, 90, 94, and 107 of the First Schedule Section A Part 1 as the proposed amendments will have a negative impact on efforts towards conservation of the environment, long-term sustainability, and the economic livelihoods of Kenyans by raising the cost of living. In addition, they will affect the computer industry at a time when cheaper access to technology is required to support the current Covid-19 environment. Further, to support the Big-4 agenda on manufacturing, it is imperative to incentivize the development of Industrial parks.

423. Further amendments providing for the zero-rating of items under Paragraphs 10, 24, 25, 26, 28, 30, and 31 of the First Schedule Section B Part II because the proposed amendments will have negative long-term implications especially post Covid-19 crisis which would require encouraging of investment to rebuild the economy and boost job creation. In addition, removing incentives geared towards the development of capital market instruments such as REITs and ABS will lead to stagnation of these markets at a time when they are most needed.

424. Deletion of amendment proposed to Paragraphs 13, 13A, 16, and 19 of the Second Schedule Part A to cushion consumers from additional costs to be occasioned by the proposed amendment.

3.61.3 Tax Procedures Act

425. Deletion of proposed introduction of a new Section 39B since the Banking Act, Central Bank of Kenya Act and related subsidiary legislation are the ones to govern the movement of funds between banks, in which case there should be no reason for enacting additional laws in this regard. Additionally, laws should not be enacted to govern agreements entered into between the KRA and third parties. Instead, the terms of their agreements should provide for the desired conditions.

426. Deletion of proposed repeal of Section 65(3) because it is retrogressive and absolves KRA from accountability. It may occasion delays in issuance of private rulings as no timeframe is stipulated.

3.61.4 Miscellaneous Fees and Levies Act

427. Deletion of amendment proposed to Paragraph (xxi) of the Second Schedule Part A and Paragraph (v) of the Second Schedule Part B as they go contrary to the government's initiative on enhancing manufacturing and may be a step backward in achieving the Big Four Agenda.

3.61.5 Kenya Revenue Act

428. Deletion of proposed introduction of Paragraph (c) under Section 5A(2) because the law already provides for incentive where information provided results in the identification and recovery of duties or taxes. Additionally, the provisions of the paragraph are not clear on information that does not result in the identification and recovery of duties and taxes but would be valuable to the KRA which may subject the provision to manipulation.

3.62 ERNST & YOUNG LLP

In their memorandum dated 6th April, 2020, EY proposed the following amendments to the Bill: -

3.62.1 Income Tax Act

429. Deletion of amendment proposed to Section 15(2)(x) because it will adversely affect taxpayers especially in the extractive sector who operate in remote areas and have to put up social infrastructural facilities. The current provision encourages development of social infrastructure thereby assisting government in the achievement of its development goals and reduction of public borrowing to fund infrastructural activities.
430. Deletion of amendment proposed to Section 22C as it will only increase the tax burden borne by taxpayers. The retention of the provision will enhance continuity, fairness, and access to affordable housing.
431. Further amendment to Section 35(1) to revise the rate downwards to 5% because a higher rate of 20% may disincentivize investment in the sector and/or increase the cost of goods.

Committee's Comment: The proposal to reduce the rate to 5% is not feasible because the tax paid by non-residents is a final tax and the rate proposed is therefore low taking into consideration that this is a final tax. Most withholding tax on income by non-resident rates are 20%.

432. Deletion of amendment proposed to Paragraph 36 of the First Schedule Part A because it disincentivizes investment in agricultural land outside the major cities and occasions additional financial burden to individuals even when the transfer was not premised on business motives.

433. Deletion of amendment proposed to Paragraph 45 of the First Schedule Part A as the proposal will income generated by NSSF aimed at enhancing the value of savings made by members thus promoting social security.

434. Further amendment to sub-section (6) of Section 133 to retain Paragraphs 24(c) and 24(d) instead of the non-existent Paragraph 24E up to 30th August 2020. Paragraphs 24(c) and 24(d) provide for investment deduction on capital expenditure for use in a Special Economic Zone within and outside Nairobi and Mombasa counties and should be retained. The retention can be extended past 30th August 2020 as this does not provide enough time for investors to take advantage of the incentive.

435. Deletion of amendment proposed to Paragraphs 51 and 60 of the First Schedule Part A because of the need to encourage green energy for climate sustainability especially with the massive investment in infrastructure in the country that may lead to high carbon emission levels. Alternatively, there could be further amendments to the Paragraphs to include a proviso to the effect that, interest income accruing from infrastructure bonds, notes or securities of a similar nature listed and issued before the effective date of this Act will be exempt.

436. Further amendment to Paragraph 1 of the Second Schedule to specify if capital expenditure incurred for use by a lessee for the prescribed business activities qualifies for investment deduction. This will effective administration of the law.

437. Further amendment to include rental residential building at the rate of 10% on straight line basis in Paragraph 1(a) of the Second Schedule in order to promote investment in affordable housing which is a key government agenda.

438. Further amendments to include "(viii) on prescribed dwelling house for occupation by employees of a business to be carried on and building in use for the welfare of workers employed in any business undertaking in item (i) to (vii) above – 10% on straight line basis" and "(ix) storage of goods or materials – 10% on straight line basis" in Paragraph 1(a) of the Second Schedule for simplicity and clarity.

439. Further amendment to include expenditure on buildings in connection with installation of the machinery in Paragraph 1(b) of the Second Schedule in order to enhance clarity and include key costs that are required for the proper operation of machinery.

440. Further amendments to include expenditure on intangible asset at the rate of 10% per year on straight line basis and definition of intangible assets in Paragraph 1(b) of the Second Schedule in order to enhance equity since some sectors (such as telecommunication) require to invest heavily on intangible assets (such as licences). Additionally, intangible assets should include: i) copyright, patent, design or model, plan, secret formula or process, trademark, or other like assets or right that has a limited useful life; ii) a customer list, distribution channel, or unique name, symbol, or picture or other marketing intangible that has a limited useful life; iii) contractual rights (including arising as a result of a payment of an expenditure with a benefit for a limited period, but which exceeds one year); iv)an expenditure that provides an advantage or benefit for a period of more than one year including expenditure incurred to acquire any tangible movable or immovable asset, including long term licenses and spectrum fees payable by a telecommunication operator.

441. Further amendments to include definition of farm works in Paragraph 1(b) of the Second Schedule in order to enhance clarity. The definition of farm works should read as follows: farm works means farm houses, labor quarters, any other immovable buildings necessary for the proper operation of the farm, fences, dips, drains, water and electricity supply works other than machinery, windbreaks and other works necessary for proper operation of the farm.

442. Further amendments to Paragraph 1(b)(xi) of the Second Schedule to amend the applicable rate to 100% to provide consistency with the 9th Schedule that guides the taxation of the extractive sector and prevails in case of inconsistencies.

443. Further amendments to the Second Schedule to substitute "straight line" for "reducing balance" to promote investment in view of reduced capital allowance rates.

444. Further amendments to Paragraph 1(b) of the Second Schedule to substitute "Cabinet Secretary, Treasury in conjunction with the line Ministry" for "competent authority" to enhance certainty. The proposal, as is, would lead to implementation challenges.

445. Further amendments to include a definition for "civil works" under Paragraph 1 of the Second Schedule to enhance clarity in the interpretation of Paragraphs 1(d)(c) and 1(d)(d) of the Schedule. The definition should read as follows: Civil works include; i) roads and parking areas, ii) railway lines and related structures, iii) water, industrial effluent and sewage works, iv) communications and electrical posts and pylons and other electrical supply works, and security walls and fencing.

446. Further amendment to Paragraph 8(2) of the Second Schedule to read as follows; "Construction of building includes the expansion, substantial renovation or rehabilitation of the building but does not include routine maintenance".

447. Further amendment to Section 2 to introduce a definition of "control" to enhance operationalization of other sections of the Act that make reference to the definition in the Second Schedule proposed to be repealed. The definition should read as follows; "control" in relation to a body corporate, means the power of a person to secure, by means of holding shares or the possession of voting power or in relation to that or another body corporate, or by virtue of powers conferred by the articles of association or other document regulating that or another body corporate, that the affairs of the first mentioned body corporate are conducted in accordance with wishes of that person and in relation to a partnership. Means the right to a share of more than one-half of the assets or of more than one-half of the income of the partnership; Provided that in the case of a body corporate, unless otherwise expressly provided for by the articles of association or other documents regulating it, "control" shall mean the holding of shares or voting power of twenty-five percent or more

448. Further amendments to the proposed Second Schedule to retain provision of Paragraph 31A of the current Second Schedule and to further amend the provisions of the Paragraph to include Public-Private Participation arrangements in order to promote the development of infrastructure in Kenya.

449. Further amendments to Paragraph 2(a) of the Third Schedule Head B to include the proposed corporate tax rate of 5. This is to enhance clarity.

450. Amendment to Paragraph 2(b) of the Third Schedule Head B to reduce corporate rate for non-resident entities (branches) to 6.5 since they are facing the same challenges brought about by the Covid-19 pandemic.

451. Further amendments to Paragraph 5(d) of the Third Schedule to increase the tax band for individuals withdrawing pension after the expiry of 15 years of joining the fund or attaining 50 years or on early retirement due to certain circumstances given that they are more at risk under the current Covid-19 situation.

452. Amendment to Paragraph 1(a) of the Twelfth Schedule to defer the payment of instalment taxes to the ninth month – 75% and twelfth month – 25% in light of the Covid-19 pandemic to boost cashflows for business operations given the cash crunches experienced due to the pandemic.

3.62.2 The Value Added Tax Act

453. Deletion of proposed amendment to Section 5(2)(aa). The proposed amendment will increase the taxable value of petroleum products consequently pushing the prices up. This goes against the Bill's objective of cushioning the economy and Kenyans against the effects of the Covid-19 pandemic.

454. Deletion of proposed amendments to Paragraphs 26, 43, 44, 47, and 90 of the First Schedule Section A Part 1 because they will lead to increased cost of agricultural products. They will disrupt the supply chain and work against the Big-4 agenda on food security and the objective of cushioning Kenyans from the effects of Covid-19 pandemic.

455. Deletion of proposed amendments to Paragraphs 27, 29, 30, 45 and 56 of the First Schedule Section A Part 1 that will lead to the increase in the cost of manufacturing.

456. Deletion of proposed amendments to Paragraph 94 of the First Schedule Section A Part 1 since it will discourage investment in the country therefore going against the objective of the Bill.

457. Deletion of proposed amendments to Paragraphs 13, 13A, 16 and 19 of the Second Schedule as they will result to an increase in the cost of living.

458. Deletion of proposed repeal of Part C of the Second Schedule.

459. Amendment to introduce a provision for the payment of refund within three months for all verified refund claims. This is will mitigate the perpetual delays that taxpayers face.

3.62.3 The Tax Procedures Act

460. Further amendment to the proposed Section 39B to extend to five days the requirement to transfer funds to the designated CBK accounts from the date of collection so as not to impose an unfair administrative burden on the agent.

461. Deletion of the proposed repeal of Section 65(3) and an amendment to extend to sixty days the time limit for the issuance of private rulings in order to enable efficient and timely business decision making.

3.62.4 Miscellaneous Fees and Levies Act

462. Amend Section 2(1) to provide for the definitions of "finished product" and "inputs", and to define a criterion for classification of an item as either a finished product or an input based on its position on the value chain in order to simplify implementation of the proposals under Sections 8(2A)(a) and 7(2A)(b) and provide guidance within the context of the policy goal. The definition for finished product could read as follows; "finished product: product that has undergone all stages of production within its value chain, including packaging in its final container". Inputs could be defined as follows; "inputs: materials or items for use in substantial transformation to finished product by entities subject to rules of origin criterion".

3.63 GLASS USERS

463. In their memorandum dated 12th April, 2020, the glass users comprising of Kenya Breweries Limited (KBL), Coca-Cola Beverages Africa, UDV Kenya Limited, Kenya Wine Agencies Limited (KWAL) and Trufoods Limited proposed that the First Schedule to the Excise Duty Act should be amended by deleting the proposed 25% excise duty on imported glass because local glass making companies do not have the capacity to serve increased orders, they lack modern glass technology which prevents them from switching from one type of glass to the next efficiently and the protection of glass manufacturing companies in Kenya violates the principle of equity and fairness in taxation of excisable goods.

3.64 KENYA TEA GROWERS ASSOCIATION (KTGA)

In their memorandum dated 12th April, 2020, KTGA proposed the following amendments to the Bill:-

3.64.1 Income Tax Act

464. Incorporate the reduction of corporate tax from 30% to 25% by the Executive Order issued by the President on 25th March, 2020.

3.64.2 Value Added Tax Act

465. Exempt tea from VAT since the National Treasury has indicated that zero-rating tea is not feasible.

3.65 ASSOCIATION OF KENYA FEED MANUFACTURERS (AKEFEMA)

In their memorandum dated 6th April, 2020, the Association proposed the following amendments to the Bill:-

3.64.3 Value Added Tax Act

466. Opposed the amendment proposed to paragraph 43, Part I, Section A of the First Schedule because making animal feeds and their input vatable will increase the purchase price of the feeds.

467. Opposed the amendment to paragraph 26, Part I, Section A of the First Schedule because this will lead to an increase in the price of fertilizers.

3.66 CONSUMERS FEDERATION OF KENYA (COFEK)

468. In their memorandum, COFEK did not support the imposition of VAT on liquefied petroleum gas and the introduction of VAT on excise duty on petroleum products citing

that it will lead to an increase in the cost of energy hence higher costs of doing business, transport, cooking, lighting among others. Additionally, they opposed the removal of 30% electricity rebate that was awarded to manufacturers and imposition of VAT on bread, pesticides and pharmaceutical products.

3.67 ROUTE TO FOOD INITIATIVE

In their memorandum dated 19th March, 2020, Route to Food Initiative proposed the following:-

469. To spur adoption of sustainable farming technology, enhance food safety and environmental protection, there is need to introduce levy environmental taxes on chemical pesticides to discourage the use of chemical pesticides with detrimental effects to public health and the environment. The levy would also mobilize fiscal revenue. In addition to this, there is need to build on skills and capacity of the Pest Control Products Board and other regulatory agencies such as NEMA and KEPHIS in the review of pesticides registered for use in the country, in the monitoring of food safety systems, and in updating existing legislation on pest control products.
470. To substantially reduce post-harvest losses to farmers and consequently enhance food security, there is need for introduction of duty waivers or lower duties payable for post-harvest equipment particularly for small scale farmers as well as increase incentives for local assembly and manufacture of post-harvest equipment such as hermetic bags and silos. Finally, it is important to upscale hermetic bag programme being implemented by the Ministry to Agriculture by 20% and ensure coordination with the county governments in the roll out and fast tracking the implementation of the warehousing receipt system to ensure better management of storage therefore improving returns for farmers as well as incentivize investments in cold storage and preservation of fish products at critical fishing centres to increase domestic fish yields.

Committee's comments: This can be addressed through the Finance Bill, 2020.

3.68 KENYA ASSOCIATION OF PHARMACEUTICAL INDUSTRY

In their memorandum dated 7th April, 2020, KAPI proposed the following amendments to the Bill: -

3.68.1 Value Added Tax Act

471. Deletion of proposed amendments under paragraph 39(3) of the First Schedule Section A Part 1. The proposal will result to an overall increase in cost of doing business in the industry resulting in inadvertent increase in the cost of essential pharmaceutical products to patients. The products should be maintained as zero-rated.

472. Deletion of proposed amendment under Section 31(1) because it will result to an increase in tax by 15% therefore hurting the end user.

3.69 MINISTRY OF ENERGY

In their memorandum dated 9th April, 2020, the Ministry proposed the following amendments to the Bill: -

3.69.1 Income Tax Act Cap 470

473. Deletion of proposed amendments to Section 15(2)(ab). The provision of rebate programme was aimed at lowering the cost of production for manufacturers that will

consequently lead to increased production of competitively priced goods, increased labour absorption and enhanced socio-economic transformation. Additionally, the Ministry only recently (31st July 2019) gazetted the criteria for the determination of the rebate giving effect to the Section.

474. Deletion of proposed amendment to Paragraph 3(d) of the Third Schedule Head B

3.69.2 Value Added Tax, No 15 of 2013

475. Deletion of proposed amendments to Paragraphs 29, 30, 45, and 48 of the First Schedule Part 1 Section A and Paragraph 18 of the Second Schedule Part A. These amendments will severely compromise the ability of the government to attain its universal targets while undermining efforts to enhance socio-economic development including electrification in ASAL regions. The amendments will lead to an increase in energy production and supply costs thereby leading to high electricity tariffs.

3.70 SCOPE MARKETS (SCFM LTD)

In their memorandum dated 8th April, 2020, SCFM Ltd proposed the following amendments to the Bill: -

Value Added Tax Act

476. Amend by inserting the following new Paragraph 1(n) under the First Schedule Part II as follows; "*Securities brokerage services*". The provision is currently under Paragraph 10 of the Second Schedule Part II which has been proposed to be amended to exclude it. The application of VAT on the service will increase the costs of doing business thereby deterring investments in the local Capital Markets and denying the government its capital reserves as funds will be moved offshore.

3.71 KENYA REVENUE AUTHORITY

3.71.1 Revenue Performance

477. In a meeting with KRA on Wednesday, 15th April, 2020, the Commissioner General submitted that the pandemic shall have a negative impact on tax collection arising from the prevailing economic environment. The expected impact on revenue collections for the fourth quarter is as follows:-
   i. The target for the 4th quarter is **KSh. 529,159 million** and broken down as follows:-
      a. Domestic taxes – **KSh. 368, 288 million**
      b. Customs – **KSh. 159,501 million**
      c. Traffic – **KSh. 1,369 million**
   ii. Projected revenue collection given the impact of the pandemic is **KSh. 344,369 million**
   iii. Expected revenue deficit for the 4th Quarter is **KSh. 184,790 million**
   iv. This deficit has been caused by:-
      a. Closure of companies
      b. Reduction in production and sales
      c. Reduced working hours
      d. Closure of borders and suspension of international flights (tourism and air passenger service charge)
      e. Reduced imports and exports
      f. Layoffs, unpaid leaves and pay cuts – impact on PAYE

g. Closure of land registries – affects stamp duty, capital gains tax, land rates
h. Revision of payment plans to mitigate cash flows challenges faced by businesses
i. Reduced compliance interventions - non-availability of taxpayers in their premises and the need to reduce physical checks

478. He further stated that KRA was in support of the measures proposed under the Tax Laws (Amendment) Bill, 2020 and noted that any additional tax incentives are likely to further aggravate the revenue deficit and the Government's financial capacity to respond to the pandemic. In conclusion, he submitted that KRA will continue to make every effort to enhance revenue collection even under the prevailing difficult conditions and should the situation improve, the revenue projections will be revised accordingly.

479. KRA proposed the following further amendments to the Bill:-

3.71.2 Kenya Revenue Authority Act

480. Deletion of amendments to Section 5A since the provision it seeks to introduce has been adequately provided for under Section 5(A)(2).
481. Amendment to subsection 2(b) of Section 5A to replace the word "two" with the word "five". This will provide for adequate compensation to informers and encourage more persons to come forward with information leading to recovery of taxes.
482. Amendment to insert a new Section 15A to anchor the intended provision under the proposed new Section 39B of the Tax procedures Act. This to ensure the application of the provision to all revenues collected by KRA.
Committee's Comments: The amendment is proper as it will ensure that all revenue collected are applied to the provision.
483. Deletion of subsection 1(a) of Section 16 and substitution thereof with new subsection (1)(a) as follows; "at least two percent of the revenue estimated in the financial estimates for each financial year". This will enable the adequate financing of KRA's operation and efficient revenue mobilization.
484. Committee's Comments: The amendment will ensure that KRA has enough budgetary allocation to enhance its revenue raising capacity.

3.72.3 Tax Procedures Act, 2015

485. Deletion of proposed insertion of Section 39B. Given that the principal Act is an administrative law that applies to management procedural aspects of domestic tax statutes, the proposed amendment would imply that the provision would not apply to other revenues collected by KRA particularly import duties and other levies collected by the Customs and Border Control Department at KRA. The provision should be anchored under the KRA Act.

3.72 NATIONAL TREASURY

In a meeting held with the CS, National Treasury, Hon. Ukur Yatani submitted that:-

3.72.1 Rationale for Tax Laws (Amendment) Bill, 2020

486. Following the outbreak of the COVID-19 pandemic, it is anticipated that the Kenyan economy will slow down. This is because most countries have resolved to lock down the

economy to contain the spread of the virus. These measures, which also include closing of borders, have resulted in reduced productivity, hence the slowdown of the global economy.

487. The Government has made significant efforts to contain the spread of the virus as recommended by the World Health Organization which involve advising people to stay at home, avoiding social contact, and closing borders. These measures are expected to negatively impact the economy through reduced demand for goods and services, low levels of production, reduced importation of goods services and ultimately leading to job losses. In order to contain the spread of the virus through various measures stated above, while at the same time cushioning Kenyans and the economy from the negative impact of the pandemic and the measures to contain its spread, H.E the President, on 25th March 2020, directed the National Treasury and Planning to implement the following fiscal measures:
   a) 100 % tax relief for persons earning gross monthly income of up to Ksh. 24,000;
   b) reduction of personal income tax top rate (PAYE) from 30% to 25%;
   c) reduction of resident corporation income tax (CIT) rates from 30% to 25%;
   d) reduction of the turnover tax rate from the current 3% to 1% for all Micro, Small and Medium Enterprises (MSMEs); and
   e) reduction of the VAT from 16% to 14%, effective 1st April, 2020.

488. In implementing the directive on income taxes, the National Treasury prepared the Tax Laws (Amendment) Bill, 2020, which among other things, proposes amendments to the Income Tax Act in order to cushion businesses from the shocks of the pandemic and provide more disposable income to the residents of Kenya.

3.72.2 Highlights of the Tax Laws (Amendment) Bill, 2020

489. The reduction of the tax rates in accordance with the Presidential Directive is expected to result in loss of annual tax revenue in excess of **Kshs 172 billion**. In order to retain a revenue neutral position after the reduction of the rates, it was therefore necessary to review the tax expenditures provided under the Value Added Tax Act, 2013, Income Tax Act, Excise Duty Act, 2015 and the Miscellaneous Fees and Levies Act, 2016. This was informed by a tax expenditure analysis report which indicated that the Government foregoes about 6% of GDP every year through the various tax incentives afforded to companies. In particular, the report indicated that in the year 2018 alone the tax revenue foregone by Government as a result of this revenue was **Kshs. 535 billion.**

490. Considering that tax rates have been reduced, the tax incentives currently available to investors are no longer necessary since it amounts to over-subsidizing companies. In this regard, it was imperative to review the existing tax incentive regime with a view to minimizing distortions in the respective regimes and provide a level ground for all taxpayers thus promoting growth. The review of the tax incentives as proposed in the Bill is expected to generate an annual revenue of **Ksh. 127.8 billion** and was guided by the following:-
   i. the exemptions that are not achieving their intended purposes and are significantly eroding the tax base and should be removed.
   ii. the allowable deductions under the Income Tax Act be restricted to the costs that are wholly and exclusively used in the production of income. In addition, the rate of capital allowances should be limited to a maximum of 100% and companies allowed to claim a maximum of 50% in the first year of investment.

iii. zero rating for VAT should be restricted to exports only to conform with the international best practice, as well as diplomatic and privileged institutions to comply the with Vienna Convention.
iv. restrict exemption from VAT to unprocessed agricultural produce and essential products such as bread, maize flour, milk, sanitary towels, seeds to support farmers, among others.
v. restrict exemptions under the Miscellaneous Fees and Levies Act to official aid funded projects, manufacturing, diplomatic missions and other essential items.

4. COMMITTTEE RECOMMENDATION

491.The Committee having considered the Tax Laws (Amendment) Bill, 2020 recommends that the House approves the Bill with amendments as proposed in the schedule.

5. SCHEDULE OF PROPOSED AMENDMENTS

The Committees proposed the following amendments to be considered by the House in the Committee stage:-

492. **CLAUSE 1**

THAT, the Bill be amended by deleting section 1 and substituting therefor the following new section—

1. This Act may be cited as the Tax Laws (Amendment) Act, 2020 and shall come into operation or be deemed to have come into operation-
   (a) in the case of the amendment to section 5(2) of the Value Added Tax Act, 2013, on the 15th day of the next month following assent of the Bill; and
   (b) on the date of assent for all other provisions of the Act.

Justification

This is to provide for the short title and the commencement date of the Act.

SCHEDULE

THAT the Schedule to the Bill be amended—

493. **The Income Tax Act (Cap 470)**

(1) in the proposed amendments to the Income Tax Act, Cap. 470 —

(a) in the proposed amendment to section 12C (1) by deleting the words "five hundred thousand shillings" and substituting therefore the words "one million shillings";

Justification

This is because businesses earning less than KSh. 1,000,000 are still in the bracket of small businesses and the tax relief will cushion them against the negative impact of the pandemic.

(b) by deleting the proposed amendments to section 15 (2) (h);

Justification

It discourages professionalism.

(c) by deleting the proposed amendments to section 15 (2) (s);

Justification

It will discourage foreign direct investment through the Nairobi Securities Exchange (NSE).

(d) by deleting the proposed amendment to section 15(2) (ss);

Justification

It will discourage foreign direct investment through the Nairobi Securities Exchange (NSE).

(e) by deleting the proposed amendment to section 15(2) (u);

Justification

It will discourage foreign direct investment through the Nairobi Securities Exchange (NSE).

(f) by deleting the proposed amendment to section 15 (2) (v);
Justification
It discourages professionalism.

(g) by deleting the proposed amendment to section 15 (2) (x);
Justification
This will discourage development of social infrastructure like hospitals and schools by the private sector.

(h) by deleting the proposed amendment to section 22C;
Justification
It discourages savings to invest in the housing sector which contradicts with the Big Four Agenda.

(i) in the proposed amendment to section 34(o) by deleting the word "aircraft" and substituting therefor the words "aviation insurance";
Justification
Aircrafts have one insurance cover for all their aviation requirements.

(j) in the proposed amendment to section 133 in the new sub-section (6) by deleting the expression "30th August, 2020" and substituting therefor the expression "31st December, 2021";
Justification
Paragraph 24E came into existence on 18th March, 2020 it is therefore important for the legislation to be given adequate time to be implemented before it is changed.

(k) by deleting the proposed amendment to paragraph 22 in the First Schedule;
Justification
The amendment is not clear

(l) by deleting the proposed amendment to paragraph 35 in the First Schedule;
Justification
This is because Post Bank caters for the small income earners especially in the remote parts of the country. Additionally, Post Bank unlike other banks does not offer credit services hence has a small profit margin.

(m) by deleting the proposed amendment to paragraph 36 in the First Schedule and substituting therefor the following amendment—
Amend paragraph 36 by deleting paragraphs (a), (b) and (e)

Justification
A personal house is not investment and therefore subjecting it to Capital Gains Tax will be unfair. In Kenya, most families inherit land as opposed to purchase of land. Therefore, removing exemption from land of less than three million will be unfair.

(n) by deleting the proposed amendment to paragraph 44 in the First Schedule;
Justification

It discourages savings with a view of investing in the housing sector.

(o) by deleting the proposed amendment to paragraph 45 in the First Schedule;
Justification
Members benefit from income collected from investments made by NSSF. Subjecting the income to tax will reduce the income due to members.

(p) by deleting the proposed amendment to paragraph 50 in the First Schedule;
Justification
The amendment will erode earnings to be received by retirees which will in turn discourage the saving culture.

(q) by deleting the proposed amendment to paragraph 51 in the First Schedule;
Justification
Removal of the exemption which is a key attraction to Kenyan bonds will make them less attractive to foreign investors.

(r) by deleting the proposed amendment to paragraph 53 in the First Schedule;
Justification
This is an unfavorable amendment considering that majority of persons at this age have retired and taxing the pension payable will reduce the pay-out to retirees.

(s) by deleting the proposed amendment to paragraph 60 in the First Schedule;
Justification
This was passed in the Finance Act, 2019 with effect from 1st January, 2020 and only one Green Bond has been issued so far. It is important that sufficient time is be given to allow a critical mass of investors leverage this exemption before tax is imposed.

(t) by deleting the proposed new item (viii) in paragraph 2 (a) of Head B (Rate of Tax) in the Third Schedule and substituting therefor the following new item-
(viii) For the year of income 2020 and each subsequent year of income
5.00
Justification
This is to reduce corporate tax by 5% as proposed by the President

494. **The Value Added Tax Act, 2013**

(2) in the proposed amendments to the Value Added Tax Act, 2013—
(a) by deleting the proposed amendment to section 2;

(b) by deleting the proposed amendment to section 5 and substituting therefor the following new amendment-
s.5(2) Delete the proviso to paragraph (aa)
(c) by deleting the following proposed amendments to Part I of Section A of the First Schedule-
(i) paragraph 21A;
(ii) paragraph 26
Justification

Will lead to an increase in the price of fertilizers hence impact negatively on food security.

(iii)Paragraph 39(3) the following proposed amendments-

8802.11.00 Helicopters of an unladen weight not exceeding 2,000 kg.

8802.12.00 Helicopters of an unladen weight not exceeding 2,000 kg.

8802.20.00 Aeroplanes and other aircraft of unladen weight not exceeding 2,000kg.

8803.30.00 Other parts of aeroplanes helicopters.

8805.21.00 Air combat simulators and parts thereof.

8805.10.00 Aircraft launching gear and parts thereof; deck-arrestor or similar gear and parts thereof.

8805.29.00 Other flying trainers and parts thereof.

Justification

The aviation industry is one of the industries that has been hardest hit by the COVID-19 pandemic. It is therefore important to give it a chance to recover after the pandemic.

(iv) paragraph 40;

Justification

To encourage growth of the fishing industry in the country and ensure that fish is affordable to Kenyans.

(v) paragraph 41;

Justification

Malaria is a killer disease in the country and imposing VAT on mosquito nets will make them unaffordable to many Kenyans and thus increase prevalence of the disease.

(vi) paragraph 43;

Justification

Will increase the price of animal feeds hence increase the price of animal products like milk, eggs, meat e.t.c.

(vii) paragraph 45;

Justification

Discourages investment in green energy.

(viii)paragraph 47;

Justification

Will increase the cost of food production hence higher food prices.

(ix) paragraph 48;

Justification

Will discourage investment in green energy.

(x) paragraph 50;

Justification

Will lead to an increase in the price of aeroplane tyres and this will impact negatively on the aviation industry.

(xi) paragraph 56;

Justification

Will lead to an increase in the cost of food production hence an increase in food prices.

(xii) paragraph 62;

Justification

The tourism industry has been heavily hit by the COVID-19 pandemic and therefore needs to be given an opportunity to recover.

(xiii)Paragraph 65;

Justification

To encourage the use of clean energy in cooking hence conserve the environment and reduce the contraction of respiratory diseases as a result of inhaling smoke.

(xiv)paragraph 66;

Justification

To encourage the use of clean energy in cooking hence conserve the environment and reduce the contraction of respiratory diseases as a result of inhaling smoke.

(xv) paragraph 67;

Justification

To encourage the use of clean energy in cooking hence conserve the environment and reduce the contraction of respiratory diseases as a result of inhaling smoke.

(xvi)paragraph 90;

Justification

To encourage food production

(xvii) paragraph 104;

(xviii)paragraph 107;

Justification

This was introduced in the Finance Act, 2019. The law should therefore be given an opportunity to be fully operationalised and its impact assessed before it is amended.

(d) by deleting the following proposed amendments to Part II of section A of the First Schedule –

(i) paragraph 18;

Justification

To encourage the aviation industry to grow and also to allow it to recover since it has been heavily hit by the COVID-19 pandemic.

(ii) paragraph 24;

Justification

The tourism industry has been heavily hit by the COVID-19 pandemic and the industry should therefore be given some time to recover before imposition of tax.

(iii) paragraph 25;

Justification

The tourism industry has been heavily hit by the COVID-19 pandemic and the industry should therefore be given some time to recover before imposition of tax.

(iv) paragraph 26;

Justification

The tourism industry has been heavily hit by the COVID-19 pandemic and the industry should therefore be given some time to recover before imposition of tax.

(e) by deleting the following proposed amendments to Part A of the Second Schedule –

(i) paragraph 13;

Justification

The amendment was made in the Finance Act, 2019. Adequate time for implementation should therefore be given.

(ii) paragraph 13A;

Justification

Bread is an essential commodity and any attempt to increase its price will make it unaffordable to most Kenyans.

(iii) paragraph 15;

Justification

Changing of the tax status will increase the price of milk which is an essential commodity.

(iv) paragraph 16;

Justification

Will increase food production costs hence higher food prices.

(v) paragraph 18;

Justification

This was introduced in the Finance Act, 2019. It should therefore be given adequate time for implementation.

(vi) paragraph 19;

Justification

Will increase the cost of food production hence higher food prices.

495. **The Excise Duty Act. 2015**

(3) in the proposed amendments to the Excise Duty Act, 2015—

(a) by deleting the proposed amendments to paragraph 1 in Part 1 of the First Schedule;

Justification

This was introduced in the Finance Act, 2019 and should therefore be given adequate time to be fully implemented.

496. **The Tax Procedures Act, 2015**

(4) in the proposed amendments to the Tax Procedures Act, 2015 –

(a) by deleting the proposed new section 39B;

Justification

The amendment has been transferred to the Kenya Revenue Act.

(b) by deleting the proposed amendment to section 65(3) and substituting therefor the following new amendment—

s.65(3) Delete the words "*forty-five*" appearing before the word "*days*" and substitute therefor the word "*sixty*"

Justification

To increase the number of days within which KRA is supposed to give its decision from forty-five to sixty and to give a timeline within which KRA has to make a decision hence giving certainty to businesses.

497. **The Miscellaneous Fees and Levies Act, 2016**

(5) in the proposed amendments to the Miscellaneous Fees and Levies Act, 2016-

(a) by inserting the following amendment—

s.8(3) insert the words "and operation" immediately after the word "construction".

Justification

This is to expand the use of the funds from the Railway Development Levy to include the operations of the Standard Gauge Railway. This will ensure smooth operation of the Standard Gauge Railway network.

(b) by deleting the following proposed amendments in Part A of the Second Schedule-

(i) paragraph (xv);

Justification

To allow the aviation industry in the country to grow and also to recover after the COVID-19 pandemic being one of the industries that has been heavily affected by the pandemic.

(ii) paragraph (xxii);

Justification

This may be misused.

(c) by deleting paragraph (vi) of Part B of the Second Schedule.

Justification

This may be misused.

498. **The Kenya Revenue Authority Act, 1995**

(6) in the proposed amendments to the Kenya Revenue Act, 1995-

(a) by deleting the proposed amendment to section 5A(2) and substituting therefor the following new amendment-

s.5A(2) Delete the words "*two million*" appearing in paragraph (b) and substituting therefore the words "*five million*".

Justification

This is to encourage more whistleblowers to report tax evaders.

(b) by inserting the following new amendment —

Insert the following new section immediately after section 15-

315A. (1) The Commissioner may appoint a person registered under the Banking Act to act as an agent for revenue banking services through an agreement.

(2) Any person appointed under this section shall be required to transfer the funds to the designated Central Bank accounts within two days following the date of collection.

(3) A person who fails to transfer the funds in accordance with the provisions of sub-section (2) shall be liable to a penalty equivalent to two percent of the revenue collections not transferred and shall be compounded for every other day on the amount of revenue that is not transferred.

(4) The penalty under sub-section (3) shall be treated as a tax debt due to the Government and recovery of tax shall apply.

Justification

This is to facilitate the collection and timely remittance of taxes through the banks to discourage the retaining of such funds by the commercial banks for their own benefits beyond the allowable statutory period of 2 days from the date of collection at the expense of the taxpayers and the Government. In addition, the delays affect taxpayers negatively since the relevant taxes must be reflected in the KRA clearance system for goods to be cleared in case of an importer.

(c) by inserting the following new amendment –

s.16(1) Delete paragraph (a) and substitute therefor the following paragraph-

(a) at least two percent of the revenue estimated in the financial estimates for each financial year;

Justification

This will enable the adequate financing of KRA's operation and efficient revenue mobilization.

NEW AMENDMENTS

(7) by inserting the following new amendments in the specified laws-

499.**The Law of Contract Act**

Insert the following new section immediately after section 3-

3A. (1) Without prejudice to any existing terms, provisions or exclusions in a contract which was existing prior to the commencement of this Act, COVID-19, shall be construed as "*force majeure*".

(2) Where the effects of the pandemic, COVID-19, affect the performance of contractual obligations under an existing contract, the following actions shall be prohibited-

a) commencement of levying of execution;
b) enforcement of security over movable and immovable property used for the purpose of a trade, business or profession;
c) repossession of any goods used for the purpose of a trade, business or profession; or
d) termination of lease or licence of immovable property in connection with non-payment of rent or other monies.

Justification

This is to protect businesses who have taken loans and may be unable to meet their obligations due to the effects of the COVID-19 pandemic.

500. **The Banking Act Cap. 488**

Amend section 31 by inserting the following new sub-section immediately after sub-section (5)-

(5A) Despite sub-section (5), an institution licensed under this Act, the Microfinance Act and an institution licensed under the Sacco Societies Act, 2008, an institution registered under the Co-operative Societies Act, Cap 490, public utility companies, mobile loan applications and any other institution mandated to share credit information under any written law or their respective officers shall not share any credit information with a credit reference bureau for a period of six months from the date of commencement of this Act.

(5B) A person who contravenes the provisions of sub-section (5A) commits an offence and shall be liable upon conviction-

a) if it is a body corporate, to a fine not exceeding ten million shillings; and
b) to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both, for every relevant officer of an institution.

Insert the following new sections immediately after section 33C-

33D. (1) An institution licensed under this Act shall provide for review of existing contractual obligations with a customer with a view of prescribing other alternative repayment arrangements including providing for deferred payments where a customer has defaulted or is unable for any reason to meet the existing contractual obligations.

(2) A review of existing contractual obligations between a financial institution and a customer shall not be deemed as a breach of a contract for purposes of the Law of Contract Act, Cap. 23.

Insert the following new section immediately after section 56-

56A. (1) During the pendency of the pandemic, COVID-19 or such other extended period as the Cabinet Secretary may prescribe, no bank or financial institution shall charge fees or interest or impose any penalties where a customer has defaulted on payment of a loan.

(2) Without prejudice to the provisions of sub-section (1), where the pandemic, COVID-19 has adversely affected the ability of a borrower to pay a loan, the bank or financial institution and the borrower shall enter into a restructured arrangement for repayment of the loan including deferred payments for such period as the parties may agree.

501. The Employment Act

In section 94 of the Act, insert the following new sub-section immediately after the existing sub-section-

(1) Where the pandemic COVID-19 has adversely affected the ability of an employer to pay salaries or wages, the employer shall not -

a) terminate a contract of service or dismiss an employee; or
b) coerce an employee to take a salary cut.

(2) Despite subsection (1), where an employer is unable to meet his obligations to pay salaries or wages, the employer shall permit an employee to take leave of absence without pay for the duration of the pandemic, COVID-19.

SIGNED............................ DATE...21/4/2020...........

THE HON. JOSEPH LIMO, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPUBLIC OF KENYA

NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

ADOPTION SCHEDULE

TAX LAWS (AMENDMENT) BILL, 2020

NAME	SIGNATURE
1. HON. JOSEPH K. LIMO, MP – **CHAIRPERSON**	
2. HON. ISAAC W. NDIRANGU – **VICE-CHAIRPERSON**	
3. HON. JIMMY O. ANGWENYI, MGH, MP	Virtual
4. HON. CHRISTOPHER OMULELE, MP	
5. HON. DR. ENOCH KIBUNGUCHY, MP	
6. HON. SHAKEEL SHABBIR AHMED, CBS, MP	Virtual
7. HON. ABDUL RAHIM DAWOOD, MP	Virtual
8. HON. DANIEL E. NANOK, MP	
9. HON. ANDREW A. OKUOME, MP	Virtual
10. HON. DAVID M. MBONI, MP	
11. HON. KURIA KIMANI, MP	
12. HON. JOSEPH M. OYULA, MP	Virtual
13. HON. JOSHUA KANDIE, MP	
14. HON. LYDIA H. MIZIGHI, MP	Virtual
15. HON. MOHAMED ALI, MP	
16. HON. PURITY NGIRICI, MP	
17. HON. SAMUEL ATANDI, MP	
18. HON. STANLEY M. MUTHAMA, MP	
19. HON. EDITH NYENZE, MP	Virtual

ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE TAX LAWS (AMENDMENT) BILL, 2020

1. The following Members acceded to the amendments proposed in the report to be considered during the Committee Stage having been physically present in the meeting:-
    i. Hon. Joseph Limo, MP – **Chairperson**
    ii. Hon. Isaac Ndirangu, MP – **Vice-Chairperson**
    iii. Hon. Christopher Omulele, MP
    iv. Hon. David Mboni, MP
    v. Hon. Francis K. Kimani, MP
    vi. Hon. Joshua Kandie, MP
    vii. Hon. Samuel Atandi, MP
    viii. Hon. Stanley Muthama, MP
    ix. Hon. Purity Ngirici, MP

2. The following Members acceded to the amendments proposed in the report to be considered during the Committee Stage having been virtually present in the meeting:-
    i. Hon. Jimmy Angwenyi, MGH, MP
    ii. Hon. ShakeelShabbir, CBS, MP
    iii. Hon. Abdul Rahim Dawood, MP
    iv. Hon. Andrew Okuome, MP
    v. Hon. Joseph Oyula, MP
    vi. Hon. Lydia H. Mizighi, MP
    vii. Hon. Edith Nyenze, MP