



# KENYA REVENUE AUTHORITY

ISO 9001:2008 CERTIFIED



Our ref: CPU/SIRM/4111

20<sup>th</sup> July' 2018

The Clerk of the National Assembly of Kenya  
Parliament Building  
NAIROBI

*24 JUL 2018*  
*23/7*  
*Paper Laid on the Table of the House by the Leader of the Majority Party on Tuesday 24<sup>th</sup> July 2018 (Afternoon)*

Dear

**RE: LEGAL NOTICE NO. 164 – EXCISE DUTY ACT ADJUSTMENT OF THE INFLATION RATES**

In exercise of the powers conferred by section 10 of the Excise Duty Act 2015, I have made adjustment to the specific excise duty rates as per the attached **legal notice number 164 of 13<sup>th</sup> July 2018**.

My earlier submission of **Ref. CPU/SIRM/4111** dated **20<sup>th</sup> July, 2018** did not include the attached memorandum.

The purpose of this letter is to submit a copy of the notice in accordance with the provisions of section 11(2) of Statutory Instruments Act.

Yours

**J.K. Njiraini, CBS**  
**Commissioner General**



Cc: Chairman – Committee of Delegated Legislation  
The National Assembly

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**Tulipe Ushuru, Tujitegemee!**

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*for recording and tabling*  
*24/7/18*



# THE KENYA GAZETTE

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Kenya Gazette Supplement No 99

6th July, 2018

(Legislative Supplement No 51)

LEGAL NOTICE NO. 163

**THE CIVIL AVIATION ACT**

(No. 21 of 2013)

**CONFERRMENT OF FUNCTIONS**

IN EXERCISE of the powers conferred by section 7(aa) of the Civil Aviation Act, 2013 the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works confers the following functions to the Kenya Civil Aviation Authority, with effect from the 4th of July, 2018-

1. Issuance of Certificates of Airworthiness\* in accordance with the Civil Aviation (Airworthiness) Regulations, 2018\*\*

2. Coordination of all International Civil Aviation Organization (ICAO) related matters

Dated the 4th July, 2018

JAMES W. MACHARIA,

*Cabinet Secretary for Transport,*

*Infrastructure, Housing, Urban Development and Public Works*

\* Any Certificates of Airworthiness issued prior to issuance of this Notice shall remain valid in accordance with the applicable Regulations

\*\* L.N. No 90 of 2018

LEGAL NOTICE NO. 164

**THE EXCISE DUTY ACT**

(No. 23 of 2015)

**ADJUSTMENT OF RATES FOR INFLATION**

IN EXERCISE of the powers conferred by section 10 of the Excise Duty Act, 2015, the Commissioner-General adjusts for inflation the specific rates of duty set out in the Schedule hereto in accordance with the formula specified in Part I of the First Schedule to the Act with effect from the 1st August, 2018.

**SCHEDULE**

Description	Current Rate	New Rate Shs.
Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Shs. 10 per litre	10.50

CERTIFIED COPY OF THE ORIGINAL  
13/7/18  
for Government Printer

<i>Description</i>	<i>Current Rate</i>	<i>New Rate Shs.</i>
Waters and other non-alcoholic beverages not including fruit or vegetable juices.	Shs. 5 per litre	5.20
Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with nonalcoholic beverages and spirituous beverages of alcoholic strength not exceeding 10	Shs. 100 per litre	105.20
Powdered beer	Shs. 100 per kg	105.20
Wines, including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	Shs. 150 per litre	157.80
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 10%	Shs. 200 per litre	210.40
Cigars, cheroots and cigarillos containing tobacco or tobacco substitutes	Shs. 10000 per kg	10,520.00
Electronic cigarettes	Shs. 3000 per unit	3,156.00
Cartridge for use in electronic cigarettes	Shs. 2000 per unit	2,104.00
Cigarettes with filters (Hinge lid and soft cap)	Shs. 2500 per mille	2,630.00
Cigarettes without filters (plain cigarettes )	Shs. 1800 Per mille	1,893.00
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences	Shs. 7000 per kg	7,364.00
Motorcycles of tariff 87.11 other than motorcycle ambulances and locally assembled motorcycles	Shs. 10,000 per unit	10,520.00

Dated the 2nd July, 2018.

JOHN NJIRAINI,  
*Commissioner-General, Kenya Revenue Authority.*

## LEGAL NOTICE NO. 164 OF 13<sup>TH</sup> JULY 2018

### MEMORANDUM TO THE NATIONAL ASSEMBLY ON THE EXCISE DUTY RATES ADJUSTMENT FOR INFLATION

#### **Objective of the Memorandum**

The objective of this Memorandum is to submit the legal notice No 164 for tabling in the National Assembly in accordance with the provisions of section 11(2) of the Statutory Instruments Act.

#### **Background of the Legal Notice**

Section 10 of the Excise Duty Act, 2015 empowers the Commissioner General of the Kenya Revenue Authority to make adjustments on the specific excise duty rates in accordance with the formula that is specified in part one of the First Schedule of the Act.

This is the first time that that the Commissioner General has adjusted the excise duty rates since the new law was enacted in 2015 and follows the amendment to the Excise Duty Act through the Finance Act 2017 which provided that such adjustment be made every two years.

#### **Objective of the Legal Notice**

The primary objective of the legal notice is to provide the legal instrument to enable the government implement the tax measures necessary for funding its economic development and growth and growth agenda.

#### **Financial implications**

The Legal notice provides for an increase of 5.2% on the specific rates of duty on excisable goods listed in the first schedule of the Act, with the exception of Petroleum and related products. It is expected that this adjustment will lead to an equivalent increase in tax revenue from the specified goods.

## **Request to the National Assembly**

The National Assembly is invited to:

- a) Note the contents of this memorandum.
- b) Adopt Legal notice no. 164 of 13<sup>th</sup> July 2018



**JOHN K. NJIRAINI, CBS**

**COMMISSIONER GENERAL-KENYA REVENUE AUTHORITY**

**20<sup>TH</sup> JULY, 2018**



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**EXCISE DUTY ACT**

NO. 23 OF 2015

Revised Edition 2017 [2015]

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[www.kenyalaw.org](http://www.kenyalaw.org)

- (d) excisable goods that the manufacturer has destroyed, with the prior written permission of the Commissioner, under the supervision of an authorised officer prior to their removal from the factory in which they were manufactured;
- (e) denatured spirits for use in the manufacture of gasohol or as a heating fuel;
- (f) excisable goods that have been lost or destroyed by accident or other unavoidable cause—
  - (i) in the course of removal of the goods by the manufacturer from the manufacturer's factory including when loading or unloading the goods;
  - (ii) in the factory of the manufacturer in which the goods were manufactured before removal from the factory; or
  - (iii) on board an aircraft or vessel prior to importation into Kenya.

(2) The Cabinet Secretary may by notice in the Gazette, grant remission of excise duty, wholly or partially, in respect of beer or wine made from sorghum, millet or cassava or any other agricultural products, (excluding barley), grown in Kenya.

(3) The Gazette notice issued under subsection (2), shall specify the products and conditions to be met for the remissions to be granted.

(4) Excisable services shall be considered to be exported from Kenya if the services are supplied from a place of business in Kenya for use or consumption outside Kenya.

(5) Subsection (4) shall apply only if the Commissioner is satisfied that the goods have not been, and shall not be consumed in Kenya.

(6) Subsection (1)(f)(i) and (ii) shall not apply if the licensed manufacturer has been compensated for the loss of the excisable goods and the compensation includes the excise duty payable on the goods, as a consequence of any of the following—

- (a) an insurance policy, indemnity, or other agreement;
- (b) a settlement; or
- (c) a judicial decision.

#### **8. Variation of rates of excise duty**

(1) The Cabinet Secretary may, by order in the Gazette, amend the First Schedule by increasing or decreasing any rate of excise duty on excisable goods or services from the date specified in the order by an amount not exceeding ten per centum of the rate set out in respect of those goods or services in the First Schedule.

(2) Nothing in subsection (1) shall empower the Cabinet Secretary to impose excise duty on any goods or services that are not excisable.

(3) The Cabinet Secretary shall lay an order varying the rate of excise duty made under subsection (1) before the National Assembly within seven days after its publication in the Gazette.

(4) If the National Assembly passes a resolution disapproving of the variation within twenty days from the first day on which the National Assembly next sits after the variation is laid before the National Assembly, the Order shall cease to have effect from the date of the resolution.



**9. Excisable value**

(1) This section shall apply where the First Schedule specifies a rate of excise duty payable by reference to the excisable value of excisable goods or services.

(2) The excisable value of excisable goods imported into Kenya shall be the sum total of the following amounts—

- (a) the customs value of the goods as determined under the East African Community Customs Management Act, whether or not any duty of customs is payable on the goods; and
- (b) the amount of duty of customs (if any) payable on the goods under the East African Community Customs Management Act, 2004 (No. 1 of 2005).

(3) The excisable value of excisable goods manufactured in Kenya shall be the ex-factory selling price of the goods, but not including—

- (a) the value added tax payable on the supply of the goods;
- (b) the cost of excise stamps, if any; or
- (c) the cost of returnable containers.

(4) Subject to subsections (5) and (6), the excisable value of excisable services shall be—

- (a) if the excisable services are supplied by a registered person in an arm's length transaction, the fee, commission, or charge payable for the services; or
- (b) in any other case, the open market value of the services.

(5) The excisable value of excisable services shall not include the value added tax, if any, payable on the supply of the services.

(6) The excisable value of excisable services specified in item 4 of Part II of the First Schedule shall not include interest or an insurance premium.

**10. Adjustment for inflation**

Despite section 8, the Commissioner shall, by notice in the Gazette, adjust the specific rate of excise duty every two years to take into account inflation in accordance with the formula specified in Part I of the First Schedule.

[Act No. 38 of 2016, s. 22, Act No. 15 of 2017, s. 2.]

**11. Ex-factory selling price of excisable goods**

The ex-factory selling price of excisable goods shall be—

- (a) if the excisable goods are sold by the manufacturer, other than to a purchaser in an arm's length transaction, the price payable by the purchaser; or
- (b) in any other case, the open market value of the goods at the time of removal from the manufacturer's factory.

**12. Quantity of excisable goods**

(1) This section shall apply where the First Schedule specifies a rate of excise duty payable by reference to a quantity measured by volume or weight.

(2) If—

*Excise Duty*

## FIRST SCHEDULE

[Section 5 (2), Act No. 38 of 2016, Act No. 11 of 2017, Sch., Act No. 15 of 2017, s. 5.]

## RATES OF EXCISE DUTY

1. Subject to paragraph 2, the rates of excise duty on excisable goods are as set out in the following table:

## PART I — EXCISABLE GOODS

<i>Tariff No.</i>	<i>Tariff Description</i>	<i>Rate</i>
2709.00.10	Condensates per 10001 @ 20degC	Shs. 6,225.00
2710.12.10	Motor Spirit (gasoline) regular per 10001 @20degC	Shs. 19,505.00
2710.12.20	Motor Spirit (gasoline) premium per 10001 @ 20degC	Shs. 19,895.00
2710.12.30	Aviation Spirit per 10001@ 20degC	Shs. 19,895.00
2710.12.40	Spirit type Jet Fuel per 10001 @ 20degC	Shs. 19,895.00
2710.12.50	Special boiling point spirit and white spirit per 10001 @ 20degC	Shs. 8,500.00
2710.12.90	Other light oils and preparations Per 10001 @ 20degC	Shs. 8,500.00
2710.19.10	Partly refined (including topped crude) per 10001 @ 20degC	Shs. 1,450.00
2710.19.21	Kerosene type Jet Fuel Per 10001 @ 20degC	Shs. 5,755.00
2710.19.22	Illuminating kerosene	Shs. 7,205 per 1000 litres @ 20 degrees centigrade
2710.19.29	Other medium oils and preparations per 10001@ 20degC	Shs. 5,300.00
2710.19.31	Gas oil (automotive, light, amber for high speed engines) per 10001 @ 20degC	Shs. 10,305.00
2710.19.32	Diesel oil (industrial heavy, black, for low speed marine and stationery engines) per 10001 @ 20degC	Shs. 3,700.00
2710.19.39	Other gas oils per 10001 @ 20degC	Shs. 6,300.00
2710.19.41	Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 125 centistokes per 10001 @ 20degC	Shs. 300.00
2710.19.42	Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 180 centistokes Per 10001 @ 20degC	Shs. 600.00

## Excise Duty

2710.19.43	Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 280 centistokes per 10001 @ 20degC	Shs. 600.00
2710.19.49	Other residual fuels oils per 10001@ 20 degC	Shs. 600.00

Description	Rate of Excise Duty
Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Shs. 10 per litre
Food supplements	10%
Cosmetics and Beauty products of tariff heading No. 3303, 3304, 3305 and 3307	10%
Waters (excluding water of tariff No. 2201.90.00) and other non-alcoholic beverages not including fruit or vegetable juices	Shs. 5 per litre
Beer, Cider, Perry, Mead, Opaque beer and mixtures of fermented beverages with non-alcoholic beverages and spirituous beverages of alcoholic strength not exceeding 10%	Shs. 100 per litre
Powdered beer	Shs. 100 per kg
Wines including fortified wines, and other alcoholic beverages obtained by fermentation of fruits	Shs. 150 per litre
Spirits of undenatured ethyl alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 10%	Shs. 200 per litre
Cigars, cheroots, cigarillos, containing tobacco or tobacco substitutes	Shs. 10,000 per kg
Electronic cigarettes	Shs. 3,000 per unit
Cartridge for use in electronic cigarettes	Shs. 2,000 per unit
Cigarette with filters (Hinge lid and soft cap)	Shs. 2,500 per mille
Cigarettes without filters (plain cigarettes)	Shs. 1,800 per mille
Other manufactured tobacco and manufactured tobacco substitutes; "homogenous" and "reconstituted tobacco"; tobacco extracts and essences	Shs. 7,000 per kg
Motor vehicles excluding locally assembled motor vehicles and school buses for use by public schools of tariff heading 87.02, 87.03 and 87.04	20%
Motor cycles of tariff 87.11 other than motor cycle ambulances and locally assembled motor cycles	Shs. 10,000 per unit
Plastic shopping bags	Shs. 120 per kg

[Act No. 38 of 2016, s. 24, Act No. 11 of 2017, Sch., Act No. 15 of 2017, s. 5(a)(i) & (ii).]

2. (1) The specific rates of excise duty on excisable goods specified in this Schedule shall be adjusted for inflation every two years in accordance with this paragraph.

(2) Each rate of excise duty specified in column 2 of the table in paragraph 1 shall be replaced by the rate of excise duty computed by reference to the following formula—

**A (1 + B)**

where —

- A is the rate of excise duty on the day immediately before the adjustment day; and
- B is the adjustment factor for the adjustment day, calculated as the average rate of monthly inflation of the preceding financial year.

[Act No. 38 of 2016, s. 24(g), Act No. 15 of 2017, s. 5(a)(iii).]

#### PART II — EXCISABLE SERVICES

1. Mobile cellular phone services shall be charged excise duty at the rate of ten percent of their excisable value.
2. Other wireless telephone services shall be charged excise duty at the rate of ten percent of their excisable value.
3. Excise duty on fees charged for money transfer services by cellular phone service providers, banks, money transfers agencies and other financial service providers shall be ten percent of their excisable value.
4. Excise duty on other fees charged by financial institutions shall be ten percent of their excisable value.

#### PART III — INTERPRETATION OF SCHEDULE

In this Schedule—

“**Adjustment day**” means 1st day of July of every year;

“**beer**” includes ale, porter, and any other description of beer and any liquor, including beer substitute, which is produced as a result of the alcoholic fermentation of an extract derived from barley, malt, a cereal grain, starch or saccharine matter and hops or hops substitute, in potable water with other substitute ingredients and which contains more than two per centum of proof spirit, but does not include—

- (a) any beer brewed by any person for personal consumption and which is not offered for sale; or
- (b) any kind of beer that, by order of the Cabinet Secretary, is excluded from the provisions of this Act;

“**cigar**” means cigar, cheroot or cigarillo prepared from tobacco or tobacco substitutes;

“**cigarette**” means —

- (a) rolls of tobacco capable of being smoked as they are and which are not cigars or cigarillos;
- (b) rolls of tobacco which, by simple non-industrial handling, are inserted into cigarette-paper tubes; or