



KENYA SUGAR MANUFACTURERS ASSOCIATION

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May 23, 2025

Our Ref: KESMA/CS/ TNT/FB/5/25

The Cabinet Secretary,

The National Treasury and Economic Planning,
Treasury Building, Harambee Avenue,
P.O.BOX 30007-00100,

NAIROBI

Hon. Cabinet Secretary,

RE: IMPACT OF PROPOSAL IN FINANCE BILL 2025 TO SHIFT SUGARCANE TRANSPORT FROM ZERO-RATED VAT TO EXEMPT VAT STATUS

The Kenya Sugar Manufacturers Association (KESMA), as the apex body representing sugar millers in Kenya, takes this opportunity to thank you for the continued engagement and efforts by the National Treasury in addressing policy matters affecting the agricultural and manufacturing sectors.

We write to respectfully raise concern over a specific proposal in the Finance Bill 2025 under **Part I - Value Added Tax, Item 36, Section (A), Item 157**, which seeks to amend the VAT treatment of **"transportation of sugarcane from farms to milling factories"** from **zero-rated** to **exempt** status.

We write to express our concerns regarding the proposal in the Finance Bill 2025 to shift sugarcane transport from Zero-rated VAT status to VAT-exempt status. While we acknowledge the government's efforts to broaden the tax base and increase tax collections, we believe this particular proposal will have unintended negative consequences for the sugar industry, affecting farmers, millers, consumers and the broader economy.

The Sugar Industry as is the case in other farming sectors has its own unique challenges. The business can only be run after intensive investment in equipment and machinery that includes but not limited to Tractors, Trailers and Weigh bridges that are essential to the daily running of the Mills but cannot be owned or maintained by the individual farmers or groups of farmers.

It is in that regard that Millers invest in these Assets to properly run their operations. We pass on the cost of these operations to the farmers at a highly subsidized rates; as an example, Butali charges only 54% of its incurred costs to the farmers and shelters the rest (these does not include the wear and tear of machinery that would otherwise have increased the cost).

The proposed change will in-turn increase the sugarcane transport costs by 16% as all input VAT associated with facilitation of the sugarcane transport like fuel, lubricants and spares will be exempted from input claim and will therefore increase the overall transport cost. If this increased transport cost is passed to the farmer without sheltering the proportionate cost, then the cost to



the farmer will have increased by more than 30%. This will not only reduce the profit margins of the farmers but could also discourage small scale farmers from continuing with sugarcane cultivation on their farms.

This in essence goes against the spirit of developing the sugar industry as we try to make cane farming worth venturing into. On the other hand, if this cost is absorbed by the millers, it will have a proportionate impact on increased costs of sugar production which will translate to correspondingly higher sugar prices in the country impacting the end consumers. This will not only add to the inflationary pressure on the economy but also make sugar imports cheaper.

The Sugar Board on the other hand has introduced a 4% SDL on the millers which is a more welcomed move with contention only on the rate. The appropriation of these monies is well understood and if operated as promised will reignite the lost glory the sector had.

The ripple effect of these two is that the consumer prices for sugar will go up by a whole 7% if these were to be implemented. These as previously seen will make farmers shy from the crop thus encouraging sugar importations both legit and unscrupulous to cover for the demand gap that would have been created. The result would be reduction in farmers' income, increased costs of production, loss of jobs, diminishing standards of living, lost revenues to the Government and increased dependence on sugar imports.

The government has emphasized agricultural development, food security, and industrial growth as pillars of the country's economic development. The sugar industry plays a fundamental role in supporting local livelihoods, creating employment, and contributing to the overall national food security.

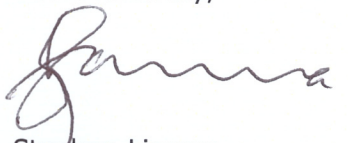
Moreover, the government has previously introduced various interventions to revive the struggling sugar industry, including regulatory reforms, debt restructuring for millers, and financial support for farmers. The proposed VAT change risks undermining these efforts by imposing unnecessary financial burdens that could push stakeholders further into economic distress.

Recommendation


To sustain and grow the sugar sector and promote economic development at micro and macro levels, our logical proposal would be to maintain the Zero-rated VAT status for sugarcane transport as it is. All millers including ourselves are always in a VAT paying position and we've always remitted our taxes on time.

Let's grow the sector for the betterment of our communities.

Yours faithfully,



Stephen Ligawa
Chief Executive Officer



Joyce A. Opondo (Ms.)
KESMA-Secretary



Cc: The Chairperson,
Parliamentary Committee on Finance and National Planning,
Parliament Buildings,
P.O. Box 41842 – 00100,
NAIROBI

**Attached: 1. Schedule I – Changing from Zero-rating to Exempt in the Finance
Bill 2025**

2. Schedule II- Limiting carry forward of tax losses to five years.



Schedule I

CHANGING FROM ZERO-RATING TO EXEMPT IN THE FINANCE BILL 2025

NO	CLAUSE	DESCRIPTION OF THE CLAUSE	PROPOSAL	JUSTIFICATION
1	PART I-Value Added Tax, Item 36,Section (A), Item 157	The Finance Bill 2025, proposes to change the status of Transportation of Sugarcane from farms to milling factories from zero-rated to exempt.	Transportation of Sugarcane from farms to milling factories to remain zero-rated under the VAT Act.	<p>Kenya is the highest cost producer of sugar in the world. The proposal in the Finance Bill will increase the costs even more bringing pain to the sub-sector. The Government of Kenya has emphasized agricultural development in food security and industrial growth as pillars of Kenya's economic development.</p> <p>The proposed VAT changes will negate the government's efforts in reviving the sugar industry.</p> <p>1. The cost of sugarcane transportation will increase by 16% as all input VAT associated with facilitation of sugarcane transportation like fuel, lubricants and spares will be exempted from input claim resulting in a proportionate increased cost to the farmer by more than 30%.This will discourage small scale farmers who are the majority cane suppliers from the industry leading to collapse of sugarcane supply.</p> <p>2. Exempting rather than Zero-rating this essential service introduces restrictions on the deductibility of input VAT for service providers. This results in higher net costs, which are ultimately passed on to sugarcane farmers and millers, thereby increasing the cost of doing business. Farmers will this in the current volatile business environment.</p>

				<p>3. Transportation costs are already a significant component of sugarcane production and are predominantly borne by farmers. The proposed amendment would increase these costs further, thereby eroding farmer margins and negatively impacting the sustainability of sugarcane farming.</p> <p>4. Additionally, it would raise the cost of local sugar production , making it less competitive in the regional and global markets</p>
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SCHEDULE II

IMPACT OF PROPOSAL IN FINANCE BILL 2025 TO LIMIT CARRY FORWARD OF TAX LOSSES TO FIVE YEARS

The Finance Bill 2025 proposes to limit the carry-forward period for tax losses to five years, Sthereby proposing to replace the current law allowing to indefinitely carry-forward the tax losses incurred by businesses. While this measure may aim to enhance short-term revenue collection, it risks undermining Kenya's economic competitiveness, hindering long-term investments, and stifling business growth.

The tax losses incurred by businesses are usually a combination of the following;

- a. Allowable operating expenses incurred in normal course of business
- b. Wear & Tear allowances
- c. Interest and forex losses
- d. Any other industry specific deductions

The move to carry forward tax losses indefinitely was a welcome move and relief to businesses especially those in capital intensive sectors like agriculture, manufacturing, infrastructure (among others) that require longer gestation periods to recover their investments and establishment costs and to achieve optimum and sustained break-even operating levels. The current law of indefinite tax loss carry-forward has been instrumental in supporting businesses through cyclical downturns, economic shocks and other industry specific challenges.

Limiting the tax loss utilisation to five years would force businesses to absorb losses prematurely thereby constraining their ability to reinvest in operations and business expansion including capital expenditure. It is also important to note many businesses are emerging from Covid-19 induced economic slowdown and imposing a five-year limitation would severely affect their financial resilience and weaken their liquidity and overall sustainability.

In the broader economic context, below is overall view of Kenya and its immediate neighbouring economies for year 2023 (source: World Bank Data).

	GDP 2023 (US\$ Billion)	Population 2023 (Million)	GDP per Capita 2023 (USD)	GDP Growth 2023 (%)	FDI 2023 (% of GDP)	Tax Loss carry limit
Kenya	\$ 108	55	\$ 1,952	6%	1%	Indefinite
Tanzania	\$ 79	67	\$ 1,225	5%	2%	Indefinite
Uganda	\$ 49	49	\$ 1,002	5%	6%	5 years
Ethiopia	\$ 164	129	\$ 1,272	7%	2%	5 years
Rwanda	\$ 14	14	\$ 1,010	8%	3%	5 years
Burundi	\$ 3	14	\$ 193	3%	1%	5 years

It can be noted that Kenya had second highest GDP (falling behind Ethiopia) and the highest GDP per capita with the third largest growth in GDP (falling behind Ethiopia and Rwanda) – but still Kenya was lowest (and at par with Burundi) in FDI which was only 1% of GDP. While most of the economies have a five-year limit on carry forward of tax losses, it may not be in Kenya's economic interest (to attract local and foreign investments) to follow the same route specially given Tanzania (the 3rd largest economy after Kenya and Ethiopia and with a strong and stable political system) is retaining the indefinite carry forward of tax losses (subject to some conditions).

Impact on Deferred Tax Asset (DTA)

Under IAS 12 – Income Taxes, a deferred tax asset is recognised for deductible temporary differences and unused tax losses carried forward, only if it is probable that future taxable profits will be available to utilise those losses.

If tax losses can be carried forward for only five years, businesses must assess whether they will be able to generate sufficient taxable income within that period to offset the tax losses, and if the future taxable profits within the 5 year period are insufficient or uncertain, the DTA may be impaired and written off.

A five-year limit significantly reduces the window for businesses to recover tax losses, increasing the likelihood of impairment of DTA. External factors such as inflation, uncertain economic outlook, geopolitical instability, industry downturns, and supply chain logistics may affect a company's ability to generate sufficient taxable profits within a restricted timeframe leading to increased impairment of DTA. Additionally, capital intensive industries (agriculture, manufacturing, infrastructure and others) may struggle to utilise their tax losses within the five years period, leading to DTA impairment.

The impairment of DTAs results in higher tax expenses, reduction of net income and negatively impacts the balance sheet. A decline in DTA may signal financial instability thereby undermining investor confidence and hampering business growth.

Sugar sector

The proposed change to limit the carry-forward of tax losses poses significant risks to the Kenyan sugar industry, an essential sector that directly impacts national food security, rural livelihoods, and economic stability.

The Kenyan sugar industry has faced numerous challenges over the years, including high operational costs, adverse climate conditions, fluctuating global sugar prices, and competition from imports. Many sugar millers and processors accumulate losses due to these external factors and require extended recovery periods to regain profitability.

Under the current indefinite tax loss carry-forward policy, sugar companies can offset losses against future earnings, allowing reinvestment in modernization, expansion, and sustainability initiatives. However, imposing a five-year limit would force millers to absorb losses prematurely, making it difficult to maintain operations, hindering financial recovery and downsizing capital investments.

The sugar industry requires capital-intensive investments, including agricultural development, factory modernization, and infrastructure upgrades. Given the nature of the sector, most investors do not expect immediate returns, as it can take over a decade to achieve stable profitability.

Restricting tax loss carry-forward could deter investors from engaging in long-term projects, reducing expansion efforts and technological advancements within the industry. Comparisons with Tanzania, which continues to allow indefinite tax loss utilization, highlight the importance of maintaining a favourable tax regime to attract agricultural and manufacturing investments.

Some of the economic data supporting the need for indefinite tax loss carry-forward includes;

- Kenya's sugar production has declined from 600,000 metric tons in 2018 to less than 450,000 metric tons in 2023, largely due to operational inefficiencies and financial distress.
- Sugar millers often operate at losses due to high input costs, regulatory constraints, and competition from subsidized imports.
- Job security for over 600,000 farmers and thousands of factory workers depends on sustained financial stability in the sector.
- FDI inflows into agribusiness have fluctuated, with investment uncertainty slowing industry growth.
- Over the last 3 years, the sugar sector in the country has become a seasonal business running, 6 to 8 months in a year instead of a full year.

The proposed limitation on tax loss carry-forward would have adverse effects on the Kenyan sugar industry, exacerbating financial strain and hindering future investments. We urge the Kenya Revenue Authority to reconsider this measure and engage industry stakeholders in constructive dialogue to explore policies that balance revenue collection and economic sustainability.