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The firm's areas of
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include the following:

- Civil Litigation
- Constitutional Law Litigation
- Human Rights Law
- Family Law & Succession
- Commercial Debt Collection
- Employment & Labour Relations
- Conveyancing
- Property Transactions
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When replying please quote our
reference

Our Ref: MM/REG/0525
19th May 2025

To: The Clerk of the National Assembly,
Main Parliament Building,
P. O. Box 41842-00100,
NAIROBI.

E-mail: cna@parliament.go.ke
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**RE: MEMORANDUM IN RESPECT TO THE FINANCE BILL,
2025 (NATIONAL ASSEMBLY BILL NO. 19 OF 2025)**

We, Muhia Mbatia Advocates submit this memorandum to Parliament regarding the proposed amendments in the Finance Bill, 2025, specifically as they pertain to Sections 27 and 50 of the Bill. Our recommendations are premised upon enhancing Kenya's ease of doing business, safeguarding taxpayers' cash flow, and fostering balanced regional development.

1. Proposed Amendment to Section 47 (1) (a) of the Tax Procedures Act

A. Bill Proposal

Section 50 (a) of the Finance Bill, 2025 proposes deleting the phrase "and input value added tax" from Section 47 (1) (a).

B. Our Recommendation

Rather than omitting the phrase, we propose substituting "and input value added tax" with "including VAT payable on imports".

C. Legal Justification

1. **Continuity of Commercial Enterprises:** Enabling taxpayers to offset overpaid taxes against liabilities—including VAT on imports—is indispensable for businesses that depend significantly on imported raw materials and capital goods.

2. **Streamlined Tax Administration:** Permitting set-offs across diverse tax heads will eliminate the procedural complexity associated with refund claims, thereby reducing administrative burdens on both KRA and taxpayers.

3. **Liquidity Preservation:** In the current economic climate, businesses require adequate liquidity to preserve operational continuity. Restricting offset options would exacerbate working capital constraints, stifle economic activity, and undermine growth.

4. **Coherent Fiscal Policy:** The deletion undercuts broader governmental objectives to facilitate business operations and support local manufacturers. Such a step would conflict with Kenya's aspirations under AfCFTA, Vision 2030, and the Bottom-Up Economic Transformation Agenda.

Permitting set-offs, rather than cash refunds, will ease the refund mechanism, thus fortifying liquidity for businesses that are ongoing concerns with



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multiple tax obligations (e.g., corporation tax, instalment tax, import duties, PAYE).

2. Proposed Amendment to Section 47 (2) and Section 47 (4A) of the Tax Procedures Act

A. Bill Proposal

Section 50 (b) aims to extend the refund determination period from 90 to 120 days while Section 50(c) seeks to elongate the audit ascertainment window from 120 to 180 days.

B. Our Recommendation

We strongly urge retention of the existing statutory timeline namely, 90 days for refund determinations and 120 days for audit ascertainment.

C. Legal Justification

1. **Commercial Solvency Risks:** Lengthening an already protracted refund timeline will exacerbate taxpayers' cash flow challenges, compelling them to secure alternative financing at elevated costs.

2. **Macroeconomic Fallout:** Deferring refunds denies businesses vital liquidity, negatively impacting their ability to remunerate employees, settle supplier invoices, and service lenders—thereby creating systemic risks of defaults and potential job losses.

3. **Erosion of Taxpayer Confidence:** Prolonged refund periods foster distrust between KRA and the taxpayer community, aggravating compliance hesitancy and contributing to an adversarial tax atmosphere.

4. **Divergence from International Standards:** Jurisdictions competing for foreign direct investment have adopted automated, expedited refund processing. Kenya's move to impede refund timelines would erode its investment attractiveness.

We therefore implore Parliament to uphold the current timelines and direct KRA to optimize its refund-processing workflows to ensure statutory compliance.

3. Proposed Deletion of Paragraphs 1A and 1B of the Second Schedule to the Income Tax Act

A. Bill Proposal

Section 27 of the Finance Bill, 2025 proposes the deletion of Paragraphs 1A and 1B, which confer a 150% investment deduction for capital investments of at least KES 1 billion in counties outside Nairobi and Mombasa.

B. Recommendations

We vehemently oppose the proposed deletion and advocate for retention of these provisions in their current form.

C. Legal Justification

1. **Balanced Regional Development:** This incentive has proven fundamental in redirecting large-scale industrial investments to counties



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beyond Nairobi and Mombasa, underpinning the Government's decongestion and equitable development objectives.

2. **Employment Generation and Socioeconomic Advancement:** The incentive has increased job creation and the development of critical infrastructure—schools, hospitals, and roads—thereby elevating living standards in underserved areas.

3. **Alleviating Urban Congestion:** By incentivizing industries to decentralize, the pressure on urban transport, housing, and social amenities in Nairobi and Mombasa is measurably reduced.

4. **Alignment with the Bottom-Up Economic Transformation Agenda:** The incentive directly supports county-level industrialization, stimulates SMEs, and invigorates local economies in alignment with Kenya's Bottom-Up Economic Model.

5. **Maintaining Investor Confidence:** Repeal of the incentive would signal fiscal instability, potentially deterring future investments, stalling industrial growth, and reversing developmental gains in non-metropolitan counties

Accordingly, we beseech Parliament to safeguard this critical incentive so as to preserve momentum in regional development, broaden industrialization, and promote inclusive economic growth.

Conclusion

We reiterate that the amendments, as currently drafted, will significantly disrupt business operations, undermine voluntary tax compliance, and jeopardize the Government's regional economic growth strategies. We respectfully urge Parliament to consider the recommendations cited above.

Yours faithfully,

For: Muhia Mbatia Advocates

Muhia Mbatia
Managing Partner