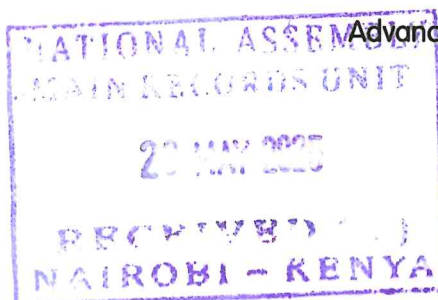




**KENYA BANKERS**  
ASSOCIATION

23<sup>rd</sup> May 2025

Samuel Njoroge, CBS  
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Clerk of the National Assembly  
Main Parliament Building  
P. O. Box 41842-00100  
NAIROBI.



Advance copy sent via email:

*Dear Samuel,*

**SUBMISSIONS ON THE FINANCE BILL 2025 (NATIONAL ASSEMBLY BILL NO.19 OF 2025)**

We refer to your public notice issued on 13<sup>th</sup> May 2025, inviting the public and stakeholders to submit memoranda on the Finance Bill, 2025 to the Departmental Committee on Finance and National Planning in compliance with Article 118(1)(b) of the Constitution of Kenya.

On behalf of the Banking Industry, we submit our proposals and comments on the Finance Bill, 2025 for your kind consideration.

We would appreciate the opportunity to appear before the Departmental Committee on Finance and National Planning to further discuss and elaborate on our proposals.

Yours faithfully

Raimond Molenje  
**CHIEF EXECUTIVE OFFICER**

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## 2. About the Banking Sector in Kenya

According to the Central Bank of Kenya Bank Supervision Report, 2023<sup>1</sup>, as at December 31<sup>st</sup>, 2023, the Kenyan banking sector comprised of 38 Commercial Banks, 1 Mortgage Finance Company, 1 Mortgage Refinance Company, 10 Representative Offices of foreign banks, 14 Microfinance Banks (MFBs), 3 Credit Reference Bureaus (CRBs), 23 Money Remittance Providers (MRPs), 8 non-operating bank holding companies, 32 Digital Credit Providers (DCPs) and 74 foreign exchange (forex) bureaus.

The banking sector staff levels increased by 1,826 (5.1 percent) from 36,107 in December 2022, to 37,933 in December 2023.

The report also indicates that as at 31<sup>st</sup> December 2023, the gross loans and advances by the Commercial Banks amounted to **KES 4.2 trillion**, an increase from KES 3.6 trillion as of 31<sup>st</sup> December 2022.

The largest proportion of the banking industry gross loans and advances as at 31<sup>st</sup> December 2023 were channeled to the Personal and Household (1.1 trillion), Trade (762.2 billion), Manufacturing (633.5 billion) and Real Estate (505.8 billion) Sectors. In total, these four economic sectors accounted for 71.30% of gross loans in December 2023.

The above statistics highlight, at a high level, the significant impact that the banking sector has to Kenya's economy. This means that the tax policy of this sector must be designed carefully to ensure that the sector continues to thrive and effectively play its role in facilitating other sectors through the advancement of credit.

### 2.1 Total Tax Contribution of the Banking sector in 2023

As per the 2023 Total Tax Contribution Study<sup>2</sup> undertaken by the Kenya Bankers Association in conjunction with PwC

- i) The Banking Sector has contributed a total of **KES 824.98 bn** in taxes to the exchequer from 2018 to 2023.
- ii) The 43 banks ((37 banks and 6 Microfinance) that participated in the study made a Total Tax Contribution of **KES 190.26 bn representing 8.78% of total taxes collected in Kenya**. This remains a significant contribution given that this contribution is made by 43 taxpayers

<sup>1</sup> [https://www.centralbank.go.ke/uploads/banking\\_sector\\_annual\\_reports/1035327448\\_2023%20Annual%20Report.pdf](https://www.centralbank.go.ke/uploads/banking_sector_annual_reports/1035327448_2023%20Annual%20Report.pdf)

<sup>2</sup> <https://www.kba.co.ke/wp-content/uploads/2024/10/KBA-Total-Tax-Contribution-Report-2023.pdf>



against a background of approximately 8.1 million<sup>3</sup> (as at 30<sup>th</sup> June 2024) active taxpayers in the country.

- iii) The 43 participating banks bore taxes<sup>4</sup> /expensed taxes amounting to KES 102.52 bn in 2023.
- iv) Taxes collected<sup>5</sup> on behalf of the Government by the 43 banks who participated in the study amounted to KES 87.74 bn. Banks generate the commercial activity that gives rise to the taxes and then collect and administer the taxes on behalf of the Kenya Revenue Authority ("KRA"). In the absence of the banks, these taxes would not have been collected. Therefore, taxes collected are a key indicator of the wider economic contribution by the sector.
- v) **28.59% of corporate taxes** in Kenya were paid by the banking sector in 2023.
- vi) **Value Distribution<sup>6</sup>**-For the 43 banks that participated in the study in 2023, for every KES 100 of profit they made, they paid KES 57.17 to the government as taxes, KES 27.80 in employee emoluments and KES 15.03 to shareholders in form of dividends.
- vii) The banking sector's contribution to taxes through PAYE collected amounted to KES 28.93 bn representing **7.79% of total PAYE collected in Kenya**.

The above highlights the critical role of the banking sector in contributing to the exchequer—not only through direct payment of taxes, but also as a key tax collection agent on behalf of the government. Given its dual role in revenue mobilization and its fundamental function in facilitating credit access across the economy, it is essential that tax policy affecting this sector be carefully designed. A balanced and supportive tax framework will ensure that the banking sector remains robust, continues to meet its fiscal obligations, and sustains its pivotal role in driving economic growth through efficient credit provision.

## 2.2 Comments on the Finance Bill 2025

The Banking Sector takes note of the welcome proposals in the Finance Bill 2025 that are aimed at bringing clarity to tax laws, easing tax administration, and supporting sustainable economic

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<sup>3</sup> <https://www.kra.go.ke/news-center/press-release/2122-kra-records-11-1-growth-in-revenue-collection>

<sup>4</sup> are the bank's own contribution in taxes that impact their results, e.g., corporation tax, irrecoverable VAT, VAT on imported services, withholding taxes borne.

<sup>5</sup> Taxes collected are those which are generated by a company's operations and are collected from others on behalf of the government, e.g., income tax deducted under PAYE, employee portion of Social Security such as NSSF, withholding taxes collected on payments to suppliers, withholding VAT and net VAT.

<sup>6</sup> "Value distributed" consists of the sum of taxes paid, employee emoluments and incentives and dividends paid to shareholders

growth. These reforms reflect a progressive approach to policy-making and align with the sector's broader goal of fostering a predictable and conducive business environment.

Key proposals that the Sector welcomes and supports include:

- ✓ Introduction of Advance Pricing Agreements (Section 12 of the Bill to amend ITA by introducing Section 18G of ITA)
- ✓ Increase of the tax-exempt limit for per diems from Kes 2,000 to 10,000 (Section 3 of the Bill that amends Sections 5 (2) (a) (iii) of ITA)
- ✓ Mortgage interest deduction to be extended to cover interest on loans for construction of residential premises (Section 8 of the Bill that seeks to amend Section 15(3)(c) of the ITA)
- ✓ Repeal of 20% Penalty on underpayment of instalment taxes (Section 22 of the Bill that repeals Section 72C of ITA)
- ✓ Individual income tax rates not applicable to fringe benefits and qualifying interest.

Having regard to the above, we propose that the following changes to the Finance Bill, 2025 be adopted to provide a conducive environment that spurs growth of the sector and the economy.

### 3. Proposals from the Banking Sector on Finance Bill, 2025

No	Issue	Current situation	Banking Industry Proposal	Justification
1.	Requirement to share private or personal data and trade secrets of customers.  *Section 52 of Finance Bill, 2025 proposes to amend Section 59A of the Tax Procedures Act by deleting subsection (1B)	Section 59A (1B) of the Tax Procedures Act provides that; <i>(1B) The Commissioner shall not require a person to integrate or share data relating to— (a) trade secrets; and (b) private or personal data held on behalf of customers or collected in the course of business.</i>  This clause ensures confidentiality of personal or private data and trade secrets are safeguarded.	We propose to continue safeguarding and protecting customer personal data and trade secrets by:  1. Deleting Section 52 of the Finance Bill, 2025	<p>The banking business is fundamentally built on trust, security, and the confidentiality of customer information. The proposed amendment to delete Section 59A(1B) of the Tax Procedures Act, 2015 (which currently protects businesses from mandatory system integrations that could expose trade secrets or personal customer data) poses significant risks to the financial services sector. If enacted, the proposed deletion of Section 59A(1B) of TPA will compel banks and financial institutions to share sensitive customer data and proprietary information with the Kenya Revenue Authority (KRA), with the following implications.</p> <p><b>Customer Trust Concerns</b></p> <p>The forced disclosure of personal data and trade secrets to KRA will be perceived by customers as a breach of privacy. This erosion of confidentiality undermines one of the core tenets of the banking relationship, trust.</p> <p>According to the <i>Kenya Bankers Association Customer Satisfaction Survey Report (2024)</i><sup>7</sup>, 32.67% of bank</p>

<sup>7</sup> <https://www.kba.co.ke/wp-content/uploads/2025/02/KBA-Customer-Satisfaction-Survey-Report-2024.pdf>



No	Issue	Current situation	Banking Industry Proposal	Justification
				<p>customers cited concerns over data security as a reason for switching banking services. This proposed amendment is expected to exacerbate those concerns, potentially leading to:</p> <ul style="list-style-type: none"> <li>✓ Increased customer attrition.</li> <li>✓ A shift from formal banking systems to informal financial mechanisms due to perceived risks around data exposure.</li> <li>✓ A negative impact on financial inclusion efforts, as customers will opt to remain unbanked to safeguard their privacy.</li> </ul> <p><b>Risk of Non-Compliance with Data Protection Laws</b>  The amendment conflicts with existing provisions of the Data Protection Act, 2019, which mandates businesses to:</p> <ul style="list-style-type: none"> <li>• Obtain explicit consent before sharing personal data.</li> <li>• Protect individuals' data privacy with appropriate safeguards.</li> <li>• Maintain clear accountability for the use and disclosure of such data.</li> </ul> <p>Compliance with both the proposed sharing of private data and trade secrets regime with KRA and the Data Protection</p>

No	Issue	Current situation	Banking Industry Proposal	Justification
				<p>Act would place banks in a legal and operational dilemma. In response, banks would be forced to:</p> <ul style="list-style-type: none"> <li>• Undertake a comprehensive legal review of all existing customer contracts.</li> <li>• Update terms and conditions to include explicit clauses permitting data sharing with KRA.</li> <li>• Develop new frameworks for obtaining informed consent from customers, potentially at significant administrative and legal cost.</li> </ul>
2.	Non-Deductibility of Sponsorship of Sports  * Section 8(a)(vi) of the Finance Bill, 2025	<p>Section 15(2)(z) of the ITA provides that;</p> <p><i>(z) Expenditure incurred in that year of income by a person sponsoring sports, with the prior approval of the Cabinet Secretary responsible for sports.</i></p> <p>This section ensures that taxpayers who sponsor sports deducts such sponsorship when computing for a year of income the gains or profits chargeable to tax.</p>	<p>Businesses invest heavily through sponsorship to nurture talent and promote sporting activities in Kenya and this proposal will negatively affect investment in sponsorship of sports. To ensure businesses continue sponsoring sports, we propose;</p> <ol style="list-style-type: none"> <li>1. Deletion of Section 8(a)(vi) of the Finance Bill, 2025</li> <li>2. Amendment of section 15(2)(z) to read as follows.</li> </ol>	<p>The role of corporate sponsorship in the development of sports in Kenya cannot be overstated. Businesses have consistently invested substantial resources in identifying, nurturing, and promoting talent across various sporting disciplines.</p> <p>These sponsorships not only facilitate access to training, equipment, and exposure for athletes, but also contribute significantly to national unity, youth empowerment, and economic development through job creation and tourism.</p> <p>The proposed Section 8(a)(vi) of the Finance Bill, 2025, if enacted, would disincentivize corporate sponsorship of sports by removing or limiting the tax deductibility of such expenditures. This would place an additional tax burden on</p>



No	Issue	Current situation	Banking Industry Proposal	Justification
		This incentivizes businesses to invest in sports through sponsorships to nurture talent.	<i>12/Expenditure incurred in that year of income by a person sponsoring sports</i>	businesses and likely result in reduced or withdrawn support for sporting initiatives.  To maintain and encourage private sector investment in sports, it is imperative that such expenditures remain tax-deductible.
3.	Agency notices to be issued where a taxpayer has appealed against a TAT or Court decision.  <b>*Section 47(v) of the Finance Bill, 2025 that seeks to delete Section 42(14)(e) of the Tax Procedures Act.</b>	Section 42 (14) of the Tax procedures Act states; <i>(14) The Commissioner shall not issue a notice under this section unless — (a) the taxpayer has defaulted in paying an instalment under section 33 (2); (b) the Commissioner has raised an assessment and the taxpayer has not objected to or challenged the validity of the assessment within the prescribed period; (c) the taxpayer has not appealed against an assessment specified in an objection decision within the prescribed timelines;</i>	Delete Section 47(v) of the Finance Bill, 2025	Section 42(14)(e) of the Tax Procedures Act plays a crucial role in upholding the principles of fairness, due process, and the right to appeal within Kenya's tax administration framework.  This provision ensures that where a taxpayer has exercised their legal right to appeal an adverse decision by the Tax Appeals Tribunal (TAT) or a court within the prescribed statutory timelines, the Kenya Revenue Authority (KRA) is barred from prematurely enforcing the decision through the issuance of agency notices.  The issuance of agency notices, especially during the pendency of an appeal, can lead to severe financial and reputational harm to taxpayers, including disruptions to cash flow, business operations, and banking relationships.

No	Issue	Current situation	Banking Industry Proposal	Justification
		<i>(d)the taxpayer has made a self-assessment and submitted a return but has not paid the taxes due before the due date lapsed; or</i> <i>(e)the taxpayer has not appealed against an assessment specified in a decision of the Tribunal or court.</i> Section 42(14)(e) of the Tax Procedures Act ensures that the Commissioner is barred from issuing an agency notice where a taxpayer has appealed against an adverse TAT or Court decision within the required statutory timelines.		It can also undermine confidence in the dispute resolution process, effectively rendering the right of appeal mute.  By maintaining Section 42(14)(e), the law strikes a fair balance between the enforcement powers of the Commissioner and the taxpayer's constitutional right to a fair hearing. It ensures that legal processes are respected and that enforcement measures are only undertaken once all avenues for appeal have been exhausted or lapsed.
4.	Increase of the timeline (90 to 120 days) for the Commissioner to determine a refund or offset application of Overpaid Tax	Section 47(2) of the TPA provides that; <i>(2) The Commissioner shall ascertain and determine an application under subsection (1) within ninety days and where the Commissioner ascertains that there was an overpayment of tax—</i>	Delete Section 50 (b) of the Finance Bill that seeks to increase the timeline for the Commissioner to determine a refund or offset application of overpaid tax from the current 90 days to 120 days.	Section 47(2) of the Tax Procedures Act provides a clear, time-bound framework within which the Commissioner is required to ascertain and determine an application for a tax refund or application of offset of overpaid tax, specifically within 90 days. This provision is essential for promoting efficiency, certainty, and fairness in tax administration.  Extending the determination period from 90 to 120 days would adversely affect taxpayers by delaying access to



No	Issue	Current situation	Banking Industry Proposal	Justification
	<b>*Section 50(b) of the Finance Bill, 2025</b>	<p><i>(a) in the case of an application under subsection (1)(a), apply the overpaid tax to such outstanding tax debts or future tax liability; and</i></p> <p><i>(b) in the case of an application under subsection (1)(b), refund the overpaid tax within a period of six months from the date of ascertainment and, if the Commissioner fails to refund, the overpaid tax shall be applied to offset the taxpayer's outstanding tax debt or future tax liabilities.</i></p> <p>This section ensures that Commissioner makes a determination on an application within 90 days to ensure the taxpayer can utilize or get a refund for valid tax overpayments within the shortest time possible.</p>		<p>legitimate refunds or offset of overpaid tax against outstanding or future liabilities. Many businesses and individuals rely on timely refunds to manage cash flows. Retention of the 90-day period will;</p> <ul style="list-style-type: none"> <li>Promote administrative efficiency within the Kenya Revenue Authority (KRA), ensuring that taxpayer claims are processed promptly and not subjected to unnecessary delays.</li> <li>Supports taxpayer rights by upholding fair treatment and timely recourse in cases of overpayment.</li> <li>Aligns with good international practices, where tax authorities are encouraged to resolve refund claims quickly to avoid unduly retaining taxpayer funds.</li> </ul>



No	Issue	Current situation	Banking Industry Proposal	Justification
5	<p>Increase of the timeline (120 to 180 days) for the Commissioner to determine a refund or offset application of Overpaid Tax where the refund or offset application is subjected to an audit.</p> <p><b>*Section 50(c) of the Finance Bill, 2025</b></p>	<p>Section 47(4A) of the TPA provides that;</p> <p><i>(4A) Where an application under subsection (1) has been subjected to an audit under subsection (4), the Commissioner shall ascertain and determine the application within one hundred- and twenty-days failure to which, the application shall be deemed to have been ascertained and approved.</i></p>	<p>Delete Section 50 (C) of the Finance Bill, 2025 that seeks to increase the timeline for the Commissioner to determine a refund or offset application of overpaid tax from the current 120 days to 180 days where the refund or offset application is subjected to an audit.</p>	<p>Justification same as above</p>
6	<p>PAYE Tax Bands of 35% and 32.5%</p> <p><b>*A request for the item to be</b></p>	<p>The Finance Act 2023 Introduced two PAYE tax bands to individual rates of tax by amending paragraph 1 of Head B of the Third schedule of the Income Tax Act. The current</p>	<p>We propose that the Third Schedule of the Income Tax Act be amended to ensure the highest PAYE tax Band is 30%.</p>	<p>Employees and experts engaged at this level are reverting to consultancy engagements instead of direct employment further denying revenue to the exchequer since the two PAYE</p>

No	Issue	Current situation	Banking Industry Proposal	Justification
	<b>included in the bill.</b>	Individual rates of Tax for PAYE are as below;  <b>Annually</b> <b>each shilling</b> On the first Ksh. 288,000 10% On the next Ksh. 100,000 25% On the next Ksh. 5,612,000 30% <i>On the next Ksh. 3,600,000</i> <b>32.5%</b> <i>On all income over Ksh. 9,600,000</i> <b>35%</b>  <b>Monthly</b> On the first Ksh. 24,000 10% On the next Ksh. 8,333 25%	<b>Wording in the bill</b> A new proviso be added in the Finance Bill ,2025 immediately after section 28 (e) of the bill and read as follows; <i>(f) by deleting paragraph 1(Under Head B-Rates of Tax) and substituting therefor the following new paragraph—</i> <b>1. The individual rates of tax shall be—</b>  <b>Rate in each shilling</b> <i>On the first Ksh. 288,000</i> <b>10%</b> <i>On the next Ksh. 100,000</i> <b>25%</b> <i>On the next Ksh. 5,612,000</i> <b>30%</b>	band of 32.5% & 35% are above the corporate tax rate of 30%.  The upper earners in Kenya contribute significantly to employment creation through the numerous MSMEs owned by this category thus help to address the youth unemployment challenge. Increase in taxes would lead to collapse of these MSMEs financed model through salaries of high-income earners.  The net take home of employees has already been significantly reduced in the recent past due to the increases in the National Social Security Fund, introduction of the Affordable Housing levy as well as Social Health Insurance Levy.  Further, the reduction in the net take home of this category of employees has significantly reduced their ability to service bank loans and hence increased NPLs.  The spending by upper-income consumers creates local employment in Kenya through personal household services, school fees, entertainment among others that employ low-wage workers. Taxing top earners more has resulted in

No	Issue	Current situation	Banking Industry Proposal	Justification
		On the next 30% On the next 32.5% On all income over 35%	467,667 Ksh. 300,000 Ksh. 800,000 Ksh.	<p>lower spending on these categories, and less local employment.</p> <p><b>Inequity and Public Backlash</b></p> <p><b>Perception of Unfairness:</b> Citizens have perceived high personal taxes as unfair, especially when corporations enjoy lower tax rates, has led general to dissatisfaction.</p> <p><b>Tax Avoidance and Evasion:</b> Further to this policy change, there is bound to be an increase of cases of Individuals seeking loopholes or resort to tax evasion strategies that may ultimately, undermine tax compliance and tax revenues.</p> <p><b>Shift in Employment Preferences:</b> High personal taxes may discourage formal employment and lead to a rise in informal or gig economy work, which often lacks benefits (medical and pension) and protections.</p> <p><b>Global Competitiveness</b></p> <p><b>Attractiveness to Global Talent:</b> High personal taxes make a country less attractive to international professionals, investors, and expatriates compared to nations with lower rates.</p>