The National Assembly

℅ The Clerk, Kenya National Assembly

Parliament Buildings Nairobi, Kenya

Email: clerk@parliament.go.ke

**Attn. Departmental Committee on Finance and National Planning**

22nd May, 2025

Reference is made to a notice put out by the Clerk, National Assembly on the 13th May, 2025 calling for Participation /Submission of memoranda in the Matter of Consideration by the National Assembly of the Finance Bill No. 19 of 2025.

We, the undersigned, the petitioners, are citizens of the Republic of Kenya and members of various Social Movements in Nairobi County and respective Civil Society Members working on Socio-Economic Rights Issues and seek to raise a petition on some of the proposed provisions in the Finance Bill, 2025.

**Whereas** Article 118 (1) (b) of the Constitution of Kenya requires Parliament to facilitate public participation and involvement in the legislative and other business of parliament and its committees and the National Assembly standing order 127 (3) requires House Committees considering bills to facilitate public participation; To achieve adequate participation towards enactment of the Finance Bill,2025 we call upon the Committee on Finance and National Planning to undertake public oral submission before the final reading of the Finance Bill, 2025.

**Whereas** The Government still seeks to increase its revenue through the proposed Finance Bill, it should not be a tool for oppression by overburdening Kenyans through taxation or facilitating corruption within the government.

**In this regard, we would like to highlight the following on the Finance Bill, 2025**

**General Observations;**

We, the undersigned, wish to raise our concerns regarding the proposed Value Added Tax (VAT) provisions in the Finance Bill. Upon review, it is evident that the implementation of these measures undermines the government's stated commitments to improving livelihoods, promoting green energy initiatives, protecting the climate, and supporting local markets. The proposed VAT provisions stand in direct contradiction to these national development goals.

Furthermore, the Finance Bill poses a significant threat to the operations of charitable organizations, including NGOs and other donor-supported initiatives. These organizations provide essential services to vulnerable and marginalized communities across Kenya. By imposing additional tax burdens, the Bill risks crippling these institutions through reduced funding, ultimately denying critical services to those who need them most. This will not only deepen inequality but also hamper progress toward sustainable development.

We also note with concern that many of the proposed amendments lack sufficient justification. This is especially troubling given that the Memorandum of Objects and Reasons is intended to serve as a brief explanatory note outlining the purpose, intent, and key provisions of proposed legislation. It should provide context for why the law is being introduced, identify the issues it seeks to address, and summarize the expected outcomes. In its absence or inadequacy, citizens are left without proper guidance or understanding of the necessity and significance of the proposed amendments.

**Part I on Income Tax Subsection 1;**

The Bill amends in Section 2 subsection (1) of Income Tax the definition of “debenture” by deleting the expression “and for purposes of paragraphs (d) and (e) of section 7 (1) of this act includes loan or stock ,whether secured or unsecured. ; from our understanding, this creates confusion about whether interest on unsecured loans or loan stock paid to non-residents is still taxable under Section 7(1)(d). Without clear guidance, it could be argued that only interest on secured loans is now taxable as "debentures," unless the interest is covered under a broader definition elsewhere. We recommend that the treatment of unsecured loans be clarified to avoid this uncertainty.

**The definition of “Individual retirement fund”** **is the income Tax (retirement Benefit rules) amended by deleting the words “subject to”** . The individual retirement fund is a fund held in trust by a qualified institution for a resident individual for the purpose of receiving and investing funds in qualifying assets in order to provide a person with benefits. This change could result in higher and unnecessary taxes on retirees and the families of deceased individuals, worsening their financial situations. It also creates uncertainty by removing the link between retirement funds and the Retirement Benefit Rules under the Income Tax Act, making taxation of these funds unclear. This may hinder KRA’s ability to enforce proper tax rules and open the door to misuse by informal or unregulated schemes. It also reduces certainty for savers and institutions relying on structured, tax-efficient retirement plans. We recommend that the government clearly explain the purpose of this amendment and how retirement funds will now be treated to avoid confusion and protect savers.

**Deletion of definition Tribunal;** A tribunal in section 83 of the Income tax Act is formed by the minister to exercise the functions conferred to it which include issues/disputes on income tax collection etc; The tribunal plays a vital role in handling income tax disputes and enforcement. Removing its definition without clear justification is troubling, as it creates uncertainty about how such matters will now be addressed. With no indication of a replacement structure, this amendment risks weakening accountability and confusing taxpayers. We strongly urge the government to clarify the purpose of this change and provide a clear alternative to ensure transparency and maintain public trust in tax administration.

**Deletion of the definition of venture company ;** The definition of venture company is key to identifying which companies qualify for certain tax incentives. E.g. for venture capital investors.**;**Removing this definition creates confusion and leaves no clear basis for taxation or applying benefits in this sector. To avoid weakening the original purpose of these tax policies, we recommend that the government clarify whether this change is part of a repeal, a revision, or a relocation of the venture capital rules. If these provisions are still relevant, the definition should be reintroduced either through regulations by the Cabinet Secretary or a new section that clearly outlines venture capital rules and definitions.

**Section 8 of the income tax is amended by deleting subsection (4);**The section deleted is on tax on pension which was previously only taxed on 300,000 shillings and above per year but now is taxable on pension below 300,000 shillings which is where most retirees fall. Therefore, all pensions and annuities become fully taxable;Since many retirees fall into this income bracket, the amendment means that most pensioners will see their entire retirement income taxed. This change has no clear justification and places an extra burden on retirees who often rely solely on their pension. It reduces the amount they take home, especially for low- to middle-income earners, and may also discourage people from saving through formal retirement schemes. We recommend that this amendment be removed entirely unless a strong and reasonable justification is provided for taxing individuals who have limited or no other source of income.

**Section 8 of the income tax is amended by deletion of subsection (5)** this change removes important tax incentives that encourage participation in registered retirement and home savings plans, potentially discouraging individuals from saving for retirement. It undermines the broader goal of promoting financial security for retirees and may have long-term negative effects on retirement planning. We recommend that this provision be retained or replaced with a clear alternative that preserves tax incentives and supports sustainable retirement savings.

**Section 8 of the income tax is amended by deletion of subsection (6);** this subsection allows widow/widower/dependents to receive the same tax-exempt benefits as the employee under subsections (4) and (5); The deletion means that dependants are no longer exempt from tax, and death benefits may now be fully taxed. This could result in families of deceased employees receiving much less money, adding financial strain during an already difficult time. Estates may also face higher tax bills, making inheritance planning harder. For some, this may be the only source of support, and taxing it heavily could lead to the collapse of small businesses or livelihoods that depend on insurance payouts causing even more hardship for affected families and communities.

**Section 10 on the income tax is amended in subsection 1 by inserting various paragraphs on supply of goods to a public entity and sale of scrap.;** The section defines certain types of income derived from Kenya, even when the income earner is non-resident and makes them subject to withholding tax when paid by residents or a Kenya based business. While the intention is understandable, this amendment could negatively affect small-scale scrap dealers, who may now be required to withhold tax but often lack formal accounting systems. This could lead to non-compliance or push them further into the informal economy. Additionally, the provision on supplying goods to public entities should exempt suppliers under the Access to Government Procurement Opportunities (AGPO) program such as youth groups, community-based organizations (CBOs), and persons with disabilities to avoid undermining government efforts to support these groups.

**Section 21 deletion of the definition of gross investment receipts;** The removal of the definition of "gross investment receipts" under Section 21 appears to reduce the tax obligations of entities such as clubs and trade associations, particularly on income earned from external investments. While the impact may seem limited to this specific section, the deletion creates legal uncertainty and could weaken the enforcement of tax rules on such entities. This may ultimately reduce the effectiveness of taxing external income generated by clubs and similar organizations.

**Section 35 of the Income Tax Act is amended by introducing a new paragraph after subsection (1)(t) and deleting key subsections 6A, 6C, and 6E.** These deletions are concerning, as they remove critical enforcement and appeal mechanisms. Subsection 6A previously allowed the Kenya Revenue Authority (KRA) to enforce compliance by linking tax obligations to stamp duty and land registration processes, while subsections 6C and 6E protected taxpayers’ rights by providing avenues to appeal or object to withholding tax assessments. Eliminating these provisions weakens KRA’s ability to ensure tax compliance in property-related transactions and removes an important layer of protection for taxpayers. Furthermore, registrars and stamp duty officers will no longer be required to verify tax clearance before approving property transfers, increasing the risk of non-compliance, especially in transactions involving capital gains or investment property. We recommend that these enforcement and appeal mechanisms be retained or replaced with equally robust provisions to uphold accountability and safeguard both tax administration and taxpayers’ rights.

**PART III- VALUE ADDED TAX**

**Section 8(2)(c) of the Value Added Tax Act, which has now been deleted**, previously ensured that radio and TV broadcasting services received at a Kenyan address were considered as supplied in Kenya even if the provider was based outside the country. This provision allowed such cross-border services to be taxed under reverse VAT, contributing to government revenue. Its removal means these services are no longer taxable in Kenya, resulting in a loss of potential tax income. Rather than increasing the tax burden on Kenyan citizens, it would be more reasonable and equitable to retain taxation on foreign-based service providers who earn income from Kenyan consumers. We recommend reinstating this provision to preserve this important source of revenue. (We highlight this even with the knowledge that likely moving focus from broadcasting VAT to Digital Services Tax)

**Section 17(5)(c) of the Value Added Tax Act has been deleted;** Previously, if a customer withheld VAT from a payment as required by law the supplier could either offset the withheld amount against other tax obligations or apply for a refund. With this provision removed, it is now unclear whether, or how, a supplier can recover withheld VAT. This creates uncertainty and may lead to cash flow challenges for affected businesses. We strongly recommend that this provision be retained to ensure clarity, fairness, and continued compliance within the VAT system.

**Deletion of paragraph (e) This clause allowed refund of excess VAT from input tax under subsection(8)( capital goods etc)** If you bought things before like machines or tools for your business and paid a lot of VAT, you could ask for a refund now one may not get a refund easily as the clear rule is gone. This could make business investments more expensive. We recommend that this amendment should be done away with.

**Section A part 1 of the first schedule to VAT is amended by deleting paragraph 49;** this paragraph provides exemption for all goods and parts under chapter 88 of EAC common external Tariff which relates to aircraft, spacecraft and parts thereof. By removing this paragraph these goods under chapter 88 will no longer be exempted from VAT and will be subjected to standard VAT rate at 16 % unless covered elsewhere under exemption. This will cause price rise on airway shipments on goods and will affect many sectors since raising this tax will lead to people affected raising prices for services to compensate for this tax. We recommend the VAT at 16% to be reduced or the exemption remains.

**Section A part 1 of the first schedule to VAT is amended by inserting in paragraph 51 the words” excluding, fuels, lubricants and tyres for vehicles immediately after the words “funded project”.**  These goods, which were previously exempt from VAT, are now subject to a 16% tax. This change will inevitably lead to increased costs, directly affecting charitable organizations that provide these essential services free of charge to vulnerable communities—often supplementing or filling gaps in government services. If the additional financial burden becomes unsustainable, these organizations may be forced to scale back or withdraw their support entirely. This shift could effectively compel citizens to seek government-provided alternatives increasing the burden of service provision. We therefore urge that these goods remain exempt from VAT, or that the tax rate applied to them be significantly reduced, to ensure continued support for our most vulnerable populations.

**Deletion of paragraph 62;** This paragraph provided VAT exemptions for taxable goods used directly and exclusively in the construction of tourism facilities, recreational parks (exceeding 50 acres), and convention or conference centers, its removal will have a detrimental impact on Kenya's tourism sector. Increased construction costs will likely be passed on to tourists, potentially reducing the country's attractiveness as a destination. This, in turn, threatens to diminish tourism-related services and lead to job losses due to reduced investment and funding in the sector. Given the significant contribution of tourism to Kenya's economy, we strongly recommend that the VAT exemption under Paragraph 62 be reinstated to support continued growth and employment in this vital industry."

**Deletion of paragraph 109;** We oppose the deletion of Paragraph 109, as it directly undermines efforts to provide affordable housing; a key government commitment, particularly for vulnerable populations. This provision facilitated access to essential building materials at reduced costs. Its removal will lead to increased construction expenses, making affordable housing less attainable. The resulting higher prices may discourage potential homeowners, contribute to the expansion of informal settlements and street populations, and negatively impact suppliers due to reduced demand and funding. Ultimately, this move risks eroding public trust in the government’s housing agenda. We strongly recommend that Paragraph 109be reinstated to support the continued realization of affordable housing initiatives.

**Deletion of 113;** This deletion is retrogressive on steps towards climate change by adopting this change and goes against their championing of a better economy. We recommend that it is kept.

**Deletion of paragraph 128 and deletion of paragraph 129;**The deletion of these paragraphs further weakens an already struggling health sector. Removing these provisions risks making healthcare services even less accessible and affordable for many citizens, and could exacerbate the shortage of medical personnel. we strongly urge that these paragraphs be retained in order to help sustain and strengthen the healthcare system.

**Deletion of paragraph 143*;***This deletion will impact the transport section and public services and also goes against plan in investing in our agricultural sector and local companies in Kenya as transport of internal goods will increase in costs further discouraging local companies this also applies to deletion of paragraph 144. We therefore recommend that both paragraphs. remain 0% rated to promote Kenyan companies and the economy**.**

**Deletion of paragraph 144;**  These this item made certain types of data storage devices. Like USB drives, memory cards, CDs, DVDs and smartcards exempt from VAT, meaning no value Added tax was changed on them if approved by the health cabinet secretary. These devices will become more expensive because they’ll be subject to likely (16%). This will increase costs for health care providers who are already bare rarely being paid right by the government ( who used exempt media for medical records or data storage), education institutions, content creators and business that rely on these storage devices . It may also discourage local reproduction and distribution of digital materials due to higher costs. We recommend that this amendment be deleted as it makes no sense and has no reasonable justification.

**The second schedule of the VAT act is amended in part A** By deleting paragraph 11; Inputs or raw materials (either produced locally or imported)supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments; inputs are now taxable leading to a potential increase in consumer goods and services**.** Deletion of said paragraph will decrease the affordability and availability of essential medicine and increase cost of public health care and medication will end up being out of stock. It will lead to further crippling of the health sector as it is already failing. We recommend that this paragraph remains 0% rated.

**By deleting paragraph 21; which is on transportation of sugarcane from farms to milling factories.** We object to the deletion of Paragraph 21, which previously exempted the transportation of sugarcane from farms to milling factories from VAT. Subjecting this essential service to VAT will increase production costs for local sugar manufacturers, forcing them to raise prices and undermining their competitiveness. This change amounts to a form of double taxation, as both excise duty and transport are already taxed. Furthermore, it will discourage local production, exacerbate reliance on sugar imports, and further cripple an already struggling sector. The resulting decline in local manufacturing will severely impact sugarcane farmers and lead to job losses. We strongly recommend that Paragraph 21 be retained to protect the local sugar industry, support employment, and uphold the government’s commitment to promoting domestic industries.

**Deletion of paragraph 29;** 29. The supply of locally assembled and manufactured mobile phones; To discourage import of phones and encourage local manufacture of these products this amendment should not happen and also brings to question the government's intentions as they claim to want to promote local industriesand improve the Kenyan economy. We recommend that this section also remains as is.

**Deletion of paragraph 31;** The supply of electric bicycles. We recommend that this paragraph is not deleted as it promotes the government's green energy project and support paragraph 30 being deleted as it does not support this plan. Reducing pollution and climate change is a major goal for the country and global society and this section supports this. Moreover, it is a national contributor to local industry*.*

**Therefore,** your humble petitioner(s) Pray that the National Assembly, through the Departmental Committee on Finance and National Planning hereby follow up the recommendation given by the members of the Social Movements and respective members of Civil Society Organizations and on the Finance Bill

Undersigned

Contact....0724880377.

Email:[lightofhopeaway@gmail.com](mailto:lightofhopeaway@gmail.com)

|  |  |  |  |
| --- | --- | --- | --- |
| No. | Name of the Petitioner | ID No. | Signature |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |