



A MEMORANDUM ON THE FINANCE BILL 2025 (NATIONAL ASSEMBLY BILL NO. 19 OF 2025).

NAME OF ENTITY/PERSON: TRANSPARENCY INTERNATIONAL KENYA

DATE: 27TH MAY 2025

INTRODUCTION

Transparency International Kenya is a not-for-profit organization with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that is bound by a common vision of a corruption-free world.

TI-Kenya works towards a transparent and corruption-free society. The organization has over 20 years' experience in governance work at the national and county levels. TI-Kenya pursues advocacy, partnerships development, strategic litigation, research, capacity building, and civic engagement as its core approaches. TI-Kenya contributes to development of effective legal, policy, and legislative frameworks as well as the promotion of national values that support transparency and accountability. It is on this background that TI-Kenya submits this memorandum.

The Finance Bill introduces a wide range of tax proposals aimed at amending several key statutes, including the Income Tax Act (Cap. 470), the Value Added Tax Act, 2013, the Excise Duty Act, 2015, the Tax Procedures Act, 2015, and the Miscellaneous Fees and Levies Act (Cap. 469C).

COMMENTS ON THE DRAFT PROVISIONS

INCOME TAX ACT

No.	Clause	Comment/Proposal	Rationale/ Justification
1.	<p>Clause 8:</p> <p>Section 15 of the Income Tax Act is amended—</p> <p>(b) in subsection (3)—</p> <p>(i) in paragraph (b), by inserting the words "construction of" immediately after the words "applied to the";</p> <p>(ii) by deleting paragraph (f);</p> <p>(c) in subsection (4), by inserting the word "five" immediately after the word "succeeding";</p> <p>(d) by deleting subsection (5) that reads —</p> <p>(5) Notwithstanding subsection (4), the Cabinet</p>	Delete the proposed amendment	<p>Currently, tax losses can be carried forward for a maximum of 5 years if incurred.</p> <p>The new proposal by the Finance Bill 2025, will go hard on businesses especially start ups, SMEs and any other capital intensive sectors that require grace periods/ longer periods before becoming profitable. This proposal will see tax liabilities of businesses increase, and may discourage investments, innovation and development of new businesses.</p>

	<p>Secretary may, on the recommendation of the Commissioner, extend the period of deduction beyond ten years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period.</p> <p>(e) in subsection (7)(a), by deleting the word "seven"</p>		
--	---	--	--

VALUE ADDED TAX ACT

No.	Clause	Comment/Proposal	Rationale/ Justification
2.	Clause 32:	Delete the proposed amendment	The Clauses propose doing away with VAT exemption on some goods, products and services, and instead apply the standard 16% VAT rate to

	<p>Section 17 of the Value Added Tax Act is amended in subsection (5)— 476.</p> <p>(a) by deleting paragraph (c);</p> <p>(b) by deleting paragraph (d) and substituting therefor with the following new paragraph —</p> <p>(d) the registered person lodges the claim for refund of the excess tax within twelve months from the date the tax becomes due and payable;</p> <p>Clause 34:</p> <p>Section 42 of the Value Added Tax Act is amended in subsection (1), by deleting the word "taxable".</p>		<p>these goods, products and services. This will result to increased prices on the said products and services, and it may result to reduced consumption of the products and services; it may discourage investment; and may kill competition more so in affected sectors.</p>
--	--	--	---

TAX PROCEDURES ACT

No.	Clause	Comment/Proposal	Rationale/ Justification
3.	<p>Clause 52</p> <p>Section 59A of the Tax Procedures Act is amended by deleting subsection (1B).</p>	Delete the proposed amendment	<p>This subsection initially limited KRA's access to personal data. Instead, the Finance Bill 2025 proposes to delete the clause granting KRA access to individual and business data in the context of combating tax evasion, i.e. improve tax compliance, hereby violating privacy and data protection laws.</p> <p>Through this, KRA will be empowered to access real-time customer data, including bank and mobile money records, from firms without prior warrant.</p> <p>If there is no clear oversight mechanisms, there is a risk of misuse of personal and business financial information, as was the case recently where data from the Business Registration Service (BRS) leaked leaving sensitive details of so many</p>

			<p>firms registered between 1967 and 2024 in Kenya in the wrong hands.</p> <p>Equally, this proposal should be entirely deleted as it is unconstitutional, in breach of Article 31 on right to privacy; and the provisions of Data Protection Act.</p>
--	--	--	--

CONTACT INFORMATION:

Sheila Masinde
Executive Director
Transparency International Kenya
Bishop Magua Building, Ground Floor,
Wing B UG 7, George Padmore Lane, Off Ngong Rd,
P.O. Box 198-00200, Nairobi
Tel: +254 (0) 202 727 763/5 Mobile: +254 (0) 722 296 589
Or Email transparency@tikenya.org