I&M Burbidge Capital

MARKET UPDATE BULLETIN

6TH APRIL 2020

Foreword & Insight

Foreword

Facing an unprecedented public health crisis with the novel coronavirus (COVID – 19) outbreak, I&M Burbidge Capital has created a resource that gives insight to the impact of the pandemic across the regional markets and economies. We present a selection of the top stories making headlines in the private capital markets as well as market data and corporate developments.

IMBC Thought of the day

"c. 10 days ago we recommended that you run conservative and worst case cash flow scenarios. It's almost certainly time to update them now. Ideally every 7-10 days at the moment."

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PART I : DEALS & CORPORATE DEVELOPMENTS

Kenya

Market

Safaricom rise lifts NSE from its 17-year low

Safaricom share has gained more than KES160 billion in valuation in the last five trading sessions to lift the Nairobi bourse from a 17-year low caused by the coronavirus pandemic that has triggered a sell-off by foreign investors. The share was trading at KES 28.60 on Friday, up 16.7% from KES 24.50 on Wednesday, March 25, when the market was at its low point. It had closed Thursday at KES 28.25 a share. This translates to a KES 164.27 billion gain in its market capitalisation to KES1.145 trillion, an equivalent of 54.8 % of total value of investors' wealth at the Nairobi Securities Exchange (NSE).

Source: Business Daily

Corporate

Tullow values Kenya assets at Sh69 billion ahead of stake sale

British oil explorer Tullow Oil has valued its assets in the Kenyan oil project at Sh69.3 billion ahead of plans to sell part of its stake. The firm, which is the lead entity in the Turkana oil fields had in February announced that it was willing to sell part of its stake in the project.

Source: Business Daily

Economy

Small traders exempted from turnover tax in Bill

Small-scale businesses and companies with annual sales of below KES 500,000 will be exempted from paying the one percent sales tax as part of a series of measures as part of measures to cushion them from the impact of the Coronavirus pandemic, according to the tax reliefs draft bill that the Treasury has presented to Parliament for approval.

Source: Business Daily

Food price rise hits near three-year high

The prices of basic food items consumed in Kenya went up by the highest annual rate in two-and-a-half years in March with sifted maize flour leading in the increase. Latest data from the Kenya National Bureau of Statistics (KNBS) shows that food inflation for March stood at 11.9 per cent, the highest since August 2017's 13.5%, which was in the midst of a disruptive General Election.

Source: Business Daily

Quote of the day

"Cash combined with courage in a time of crisis is priceless."
-Warren Buffet.

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PART II: TREASURY UPDATE – 03.04.20

LOCAL MARKET

The Kenyan Shilling was steady against the Dollar last week to close at 106.15/106.65. Kenya recorded an increase in the number of COVID-19 infections to 142 with 4 mortalities as of Sunday 5th 2020.

The NSE 20 share index edged higher by 95.52 points to close at 2,013.19 while the secondary market registered reduced activity with bonds worth KES.8.9Bn transacted compared to KES 11.7 billion registered the previous week.

For the week ending 03rd April 2020, the interbank money market was relatively iliquid. The average volumes traded decreased to KES. 7.645 billion against KES 15.76 Billion traded in the previous week. Central bank of Kenya withdrew KES 69.60 billion via the 7-day Term Auction Deposits.

The Treasury bills auctions of April 02nd received bids totalling KES 27.04 billion against an advertised amount of KES 24.0 billion representing a performance of 112.69%. The auction saw the 182 and 364 rates increase to 8.145% and 9.049% respectively while the 91-day Treasury bill rate decrease to 7.220%. The total amount raised increased to KES.27.04 Billion against KES 11.66 billion raised in the previous week.

INTERNATIONAL MARKET OVERVIEW

The Dollar was steady for the most part of last week out of demand for the currency as the market sought to hedge against the rising mortalities caused by COVID-19 pandemic. The U.S has so far recorded 336,830 infections with 9,618 mortalities as of Sunday 5th 2020. The Federal Reserve took bold steps to protect the U.S economy and others by allowing foreign central banks to access dollars during the COVID-19 crisis by allowing them to exchange their holdings of U.S. Treasury securities for overnight dollar loans. Negative data did little to affect the currency such as The Manufacturing PMI gave a low reading of 48.5 against a forecast of 49.2, as unemployment rates hit 6.648 million and non-farm payroll data dipped to -701,000 against a forecast of -100,000.

The EUR edged lower last week mostly on the back of negative data that showed the Eurozone was in a contractionary phase and heading towards a recession. The German year-on-year CPI figures dipped to 1.4% from 1.7% as the German Harmonised CPI fell to 1.3% from a forecast of 1.7%. Euro-Zone Core CPI dipped to 1.0% against a previous reading of 1.2% as the Euro-Zone CPI also gave poor readings of 0.7% against a previous reading of 1.2% while Euro-Zone Manufacturing PMI dipped to 44.5 against a previous reading of 44.8 together with Euro-Zone Unemployment Rate that dipped to 7.3% from 7.4%. The market now awaits the issuance of a coronavirus bond to help the Eurozone countries protect their economies from the adverse effects of the COVID-19 pandemic.

The GBP trading was mixed last week on the back of positive and negative news that affected the currency. The U.K credit rating was downgraded from AA to AA- by Fitch while the GBP PMI Services dipped to 34.5 from 53.2. The downgrading was out of to an increase in fiscal spending due to the coronavirus pandemic and uncertainty regarding the post-Brexit trade relationship with the EU. The pound gained on news that the Brexit transition period would be extended due to the pandemic. Month-on-month Nationwide House Prices surged to 0.8% against a forecast of -0.1% while the year-on-year data also surged to 3.0% against a forecast of 2.0%.

Source: I&M Bank Limited

PREVAILING TREASURY BILLS YIELD & INFLATION

Country				
91 Day T-Bill	7.220	10.700	4.045	6.388
182 Day T-Bill	8.145	11.300	4.774	6.687
364 Day T-Bill	9.049	13.400	5.951	7.273
Inflation Data	6.37	3.40	3.70	8.70

KES INDICATIVE EXCHANGE RATES AT MARKET OPEN

Currency	Country	Bank Buy	Bank Sell
USD		105.20	106.90
GBP		128.00	132.00
EUR		113.40	117.00
CHF		106.50	110.30
JPY		0.9520	0.9900
ZAR		5.50	5.90
INR		-	1.4160
CNH		14.50	16.50
RWF		7.80	9.70

INDICATIVE DEPOSIT RATES

Fixed period	1M	3M	6M	1Yr
KES (50,000< 5 Million)	6.25	6.50	7.00	7.25
KES (Above 100 Million)	6.75	7.50	8.00	8.50
USD (Above 500,000)	1.75	2.25	2.75	3.00
EUR (Above 500,000)	0.75	1.25	1.25	1.50
GBP (Above 500,000)	0.25	0.50	0.50	0.50

COMMODITY PRICES

	Unit	Close
Aluminum	USD/MT	1481.50
Murban Crude Oil	USD/barrel	33.45
Coffee	US Cents/lb.	114.90
Wheat	US Cents/Bushel	557.25
Corn	US Cents/Bushel	330.50

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PART III:EQUITIES AND BOND TRADING – 03.04.20

WEEKLY MARKET COMMENTARY

The NSE All share and the NSE 20 share indices edged up 1.46% and 1.41% on Friday to close at 138.68 and 2,013.19 respectively. Weekly, the indices gained 8.94% and 4.94% respectively. Market turnover on Friday increased by 33% to settle at KES 636 Million against the 478.8 Million recorded on Thursday. Volumes traded rose with 21.6 Million shares traded against 16.2 Million in the previous session. Weekly, the NSE closed the week with 92M shares valued at KES 2.73 Billion having been traded vis a vis 140.6M shares valued at KES 3.95 Billion transacted in the previous week. Foreign activity accounted for 84% of the total market activity in Friday's session with 90.67% of the day's buys and 76.7% of the day's sales. Safaricom Plc was the week's main feature with 56 Million shares of the counter valued at KES 1.5 Billion having been traded. The secondary bond market recorded a decline in activity, with bonds worth 885 Million having been traded as compared to KES 2.05 Billion recorded in the previous session. The number of deals in the bonds market declined on Friday to 65 from 109 deals recorded on Thursday.

INDEX MOVEMENTS

Index	Closing	% Change	% YTD
NASI	138.68	1.46	-16.66
NSE 20	2013.19	1.41	-24.16
NSE 25	3208.81	1.45	-21.75
FTSE NSE 25	180.04	1.21	-21.55

MARKET DATA

Market Data	Friday	Previous
Market Cap (KES, billions)	2119.60	2089.00
Turnover (KES, millions)	636.42	478.80
Volume (millions)	21.66	16.16
Foreign Buys (%)	90.67	65.57
Foreign Sales (%)	76.71	65.57

GOVERNMENT BONDS

GOK Bonds	Rates	Traded Yield	Value Traded (million)
FXD1/2019/5	11.304	11.100	50.00
FXD1/2017/10	12.966	11.461	190.00
FXD2/2018/20	13.300	12.789	100.00

MOVERS

Movers	Volume (million)	Turnover (million)	VWAP
Safaricom Plc	16.76	481.90	28.75
Equity Group Holdings	2.36	80.12	34.00
ABSA Bank Kenya Plc	0,37	6.59	9.90

Source: Faida Investment Bank

FAIDA INVESTMENT BANK

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PART IV: DEALS ANNOUNCED DURING THE WEEK

SELECTED DISCLOSED TRANSACTIONS IN EAST AFRICA – 30.03.2020 to 03.04.2020						
Target Company	**Acquirer Company**	**Deal Type**	**Synopsis**	**Deal Value (USD Million)**	**Sector**	**Country**
Bank of Africa Kenya	Bank of Africa Group	Capital Injection	The Bank of Africa Group (BOA Group) is to make an immediate capital injection of KES 1.5 Billion in BOA Kenya	15	Financial Services	Kenya
Consolidated Bank	Treasury	Debt to Equity Conversion	The Treasury has raised its stake in Consolidated Bank to 93.4 percent after converting a KES 1.6 billion debt into shares.	16	Financial Services	Kenya
Serengeti Breweries	EABL	Majority stake	Regional beer giant East African Breweries Ltd is expected to spend at least $18.7 million on the purchase of an extra stake in Serengeti Breweries	18.7	FMCG	Tanzania
Kasha	Finnfund	PE	Finnish development financier Finnfund has made a USD 1 million investment in Kasha, an e-commerce platform selling health, hygiene and self-care products in East Africa.	1	Technology	Kenya
Twiga Foods	DFC	Debt	The US International Development Finance Corporation (DFC) announced the first disbursement of a $5 million loan to Twiga Foods to strengthen food security in Kenya	Undisclosed	FMCG	Kenya

PART IV: SUMMARY OF BUSINESS INSIGHTS

HOW TO EFFECTIVELY WORK FROM HOME

The COVID-19 pandemic has severely interrupted the normal order of the world and with it the operations of many organisations across the globe. Where possible, many organisations have been encouraged to allow their employees work from home in an effort to combat the spread of the virus among populations. We have compiled some tips below that highlight how to maintain high levels of productivity even during this pandemic both from the organization and staff's points of view:

1. **Tips for Team Members:**

- Define a schedule
- Establish rules for everyone else at home
- Designate a dedicated area and invest in the right equipment
- Keep in touch with workmates and step outside

2. **The Supporting Roles of the Organisation:**

- Ensure your team is well equipped with the right infrastructure
- Communication is key
- Address the psychological effects of working from home

BUSINESS CONTINUITY DURING THE COVID-19 PANDEMIC

The COVID-19 pandemic has, in a relatively short space of time, caused unprecedented disruption to lives, businesses, economies, governments and society, on a global scale. We bear witness to uncertain and rapidly changing times with rafts of additional and increasingly rigorous directives being issued by Government to contain the spread of the pandemic. In such an ever-changing situation, here is our take on what businesses could focus on, to not only warrant survival during this crisis, but ensure that they are poised to thrive once this crisis is behind us.

- Businesses have a moral obligation to ensure that their greatest assets – their people – are well looked after.
- At a time when revenues are likely to be strained, it is essential that businesses conserve cash, by eliminating or deferring all non-essential expenses and focusing on core business necessities.
- Businesses will need to adapt to new supply chain conditions, perhaps by holding more stocks and/or adjusting production cycles / shifts.
- Communication with all business stakeholders, both internal and external, is of paramount importance.
- Businesses need to ensure that their efforts at self-preservation do not hamper the existence of other businesses and need to show support and solidarity during these difficult times

PART V: PKF KENYA LLP SUMMARY OF PROPOSED AMENDMENTS TO KENYA TAX LAWS

On 25 March 2020, President Uhuru Kenyatta announced various measures 'to cushion every Kenyan from the shocks arising from COVID-19', with the principle aim of providing certainty to both employees and employers. Subsequently, The Tax Laws (Amendment) Bill, 2020 was Gazetted on 30 March 2020 detailing out these and various other fiscal proposals. This is in addition to the reduction of the Value Added Tax (VAT) rate to 14% which was effected on 1 April 2020.

The Bill is open for public participation up to Monday 6 April 2020 and PKF Kenya LLP has made detailed submissions in relation to the same. **It is important to note that the proposals contained in the Bill are not effective until enacted by Parliament and receive presidential assent. The effective date for each proposal will be specified in the Act, and we shall issue a follow up alert to notify you of the final position.**

INCOME TAX PROPOSALS

Changes of corporation tax rate:

The President proposed a reduction in the corporation tax rate for resident companies to 25% (currently 30%). Whilst the bill seeks to establish this change, we note that the rate is not specified in the bill which we expect is a drafting error that will be corrected prior to enactment. This is a welcome move that will spur growth in the economy.

Withholding tax on dividends paid to non-residents:

The non-resident rate of withholding tax on dividends is proposed to be increased to 15% (previously 10%). Effectively, this change would increase the tax charges for non-resident shareholders of companies upon distribution of dividends. This is likely to reduce the attractiveness of Kenya as a destination for foreign investment.

Withdrawal of tax exemptions:

The Bill proposes the removal of tax exemptions to various bodies and organisations previously available in The First Schedule of the Income Tax Act. Such exemptions included some state corporations that no longer exist or a moribund such as, The National Social Security Fund (NSSF), venture capital companies amongst others.

Other notable changes are:

- Withdrawal of tax exemption previously available on capital gains tax (CGT) in respect of personal residences and, low value and agricultural land of up to 50 acres.
- Removal of tax exemption on interest income on Government issued infrastructure bonds.

The withdrawal of tax exemptions to the NSSF is likely to widen the overall Kenyan pension deficit. In addition, given that residential property and agricultural real estate are generally not held for capital appreciation purposes, the withdrawal of CGT on such assets is likely to load additional tax burden on the rural communities.

Expenses deductible for tax purposes:

The Bill proposes to discontinue/disallow the following incentives/expenses from tax deductibility:

- The recently introduced 30% electricity rebate for manufacturers
- Trade association fee and subscriptions
- Expenditure related to public issue of securities
- Expenditure related to club subscriptions for employees
- Expenditure on approved public social infrastructure

The electricity rebate was introduced to provide the much needed relief to manufacturers from the high cost of power to improve their competitiveness. By scrapping this incentive, the cost of manufacturing will remain high. This will directly impact post Covid-19 recovery plans.

Trade associations similarly play an important part in promoting a better and efficient business environment in the respective sectors hence disallowing members' contributions is tantamount to killing these associations. There is no known philosophy as to why a government would discourage trade associations whereas the role they play in economic prowess of a country is undisputed.

Tax deductibility of costs related to public issue of securities was introduced to entice companies to list shares and debt on the Nairobi Securities Exchange. This incentive does not seem to have paid off in recent times as the NSE has largely remained dormant on new listings over the last couple of years. Just like in the private equity space, such costs are better capitalised as there is no known philosophy to justify a skewed incentive for public issue of securities whereas thousands of private equity deals do not enjoy similar tax benefits.

With increasing need for private sector participation in improving public social infrastructure and amenities, especially in a post Covid-19 era, the proposed changes will be counterproductive.

PART V: PKF KENYA LLP SUMMARY OF PROPOSED AMENDMENTS TO KENYA TAX LAWS

Capital deductions:

The Bill proposes to replace The Second Schedule in entirety with a proposed transition date of 31 August 2020. Key highlights are as follows:

0Investment Deduction Allowances (IDA)		
	Old rate	**New rate**
Buildings and machinery used in manufacture	100% or 150% (for investments outside Nairobi, Mombasa and Kisumu that exceed Shs. 200 million)	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Commercial buildings including hotels constructed outside Nairobi, Mombasa and Kisumu that exceed Shs. 200 million	150%	-
Film equipment used by local film producer, buildings used for training film producers, actors and crew	100%	-
Ships over 125 tonnes	100%	-
Hotel buildings	100% or 150% (for investments outside Nairobi, Mombasa and Kisumu that exceed Shs. 200 million)	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Hospitals	-	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Petroleum and gas storage	-	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Education buildings, hostels and schools	50% per annum, straight line basis	10% per annum on a reducing balance basis
Eligible factory buildings	10% per annum, straight line basis	-
Commercial buildings with provision of certain social amenities	25% per annum, straight line basis	-
Commercial buildings *(a building used as an office, shop, showroom, godown, storehouse, or warehouse used for storage of raw materials for manufacture of finished or semi-finished goods or civil works relating to water or electric power undertaking)*	-	10% per annum on a reducing balance basis

Wear and Tear Allowances		
	Old rate	**New rate**
Tractors, lorries over 3 tonnes, heavy self-propelled equipment and earth moving companies	37.5% per annum on a reducing balance basis	25% per annum on a reducing balance basis
Computer hardware, calculations, copiers and duplicating machines	30% per annum on a reducing balance basis	25% per annum on a reducing balance basis
Motor vehicles	25% per annum on a reducing balance basis	25% per annum on a reducing balance basis
Aircrafts	25% per annum on a reducing balance basis	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Ships	12.5% per annum on a reducing balance basis (ships below 125 tonnes)	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Hospital equipment	12.5% per annum on a reducing balance basis	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Furniture, fittings, equipment and other machinery	12.5% per annum on a reducing balance basis	10% per annum on a reducing balance basis
Telecommunications equipment	20% per annum on a straight line balance basis	10% per annum on a reducing balance basis
Film equipment used by local film producer	-	25% per annum on a reducing balance basis
Machinery used to undertake operations under a prospective right or exploration under a mining right	12.5% / 37.5% per annum on a reducing balance basis	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis

PART V: PKF KENYA LLP SUMMARY OF PROPOSED AMENDMENTS TO KENYA TAX LAWS

Other allowances		
	Old rate	New rate
Software	20%	25% per annum on a reducing balance basis
Farm works	100%	**Year 1:** 50% **Year 2 onwards:** 25% per annum on a reducing balance basis
Right to fibre optic cable by a telecommunications operator	10%	**5%** per annum on a reducing balance basis

We welcome the simplification of The Second Schedule of the ITA, including the introduction of allowances for hospitals. However, the more generous allowances that are available at present have been significant inducement for capital investment and enhancement of capacity in Kenya. In particular:

- 100% investment deduction allowances have helped make Kenya a destination of choice for manufacturers and therefore and therefore significantly improve both employment and our overall balance of payments.
- 150% allowances outside the municipalities of Nairobi, Mombasa and Kisumu have encouraged investment in and development of other parts of the country.
- 100% farm works allowances encourage investment into farming and enhance both food security and export earnings of the country.

Investments spurred by such allowances in a post Covid-19 recovery environment will be much needed and removal of these allowances is likely to reduce the level of investments companies take up going forward, thereby deterring the Big 4 agenda on manufacturing.

Qualifying interest:

Definition of qualifying interest proposed to include all forms of interest paid to an individual. Currently, qualifying interest is restricted to interest paid by financial institutions licensed under the Banking Act, Building Societies Act and the Central Bank of Kenya. The proposed amendment encourages investment in non-financial institutions in the form of debt.

Withholding tax on marketing, sales promotion and advertising:

The Bill proposes to introduce withholding tax on services (provided by both residents and non-residents) related to sales promotion, marketing, advertising and transportation of goods (excluding air and shipping). The proposed tax rate for residents is 5%, whilst for non-residents is 20% (subject to the application of any Double Tax Treaties). The proposed amendment is aimed at widening the tax net. Some of these sectors have historically operated at very low margins and it is likely that many businesses will find themselves in tax refund positions.

Turnover tax:

The Bill proposes to extend the applicability of turnover tax to an annual turnover of between Shs. 500,000 and Shs. 50,000,000 and is now available to incorporated entities. The Bill further proposes a reduction of the tax rate for turnover tax from 3% to 1%. The proposed changes also repeal presumptive tax in its entirety. Turnover tax is currently only available to un-incorporated persons having an annual turnover of up to Shs. 5,000,000. Presumptive tax of 15% of the business permit or trading license is payable as a minimum by persons eligible to pay turnover tax. The changes to turnover tax are welcome as it reduces the tax burden on such businesses. However, the current VAT threshold should also be considered for expansion in line with this proposed change.

Pay As You Earn (PAYE):

The Bill proposes to amend:

- Personal relief to Shs. 28,800 from Shs. 16,896 per annum.
- Each of the tax bands with the highest band taxing income over Shs. 688,000 at a rate of 25% (previously Shs. 564,709 at a rate of 30%) as follows

Old PAYE bands		New PAYE Bands	
Band	Tax rate	Band	Tax rate
First Shs. 147,580	10%	First Shs. 288,000	10%
Next Shs. 139,043	15%	Next Shs. 200,000	15%
Next Shs. 139,043	20%	Next Shs. 200,000	20%
Next Shs. 139,043	25%	Over Shs. 688,000	25%
Over Shs. 564,709	30%		-

PART V: PKF KENYA LLP SUMMARY OF PROPOSED AMENDMENTS TO KENYA TAX LAWS

- Increase the tax bands for pension withdrawals in line with above as follows:

Withdrawals before expiry of fifteen years of joining the pension

Old tax bands		New tax Bands	
Band	Tax rate	Band	Tax rate
First Shs. 147,580	10%	First Shs. 400,000	10%
Next Shs. 139,043	15%	Next Shs. 200,000	15%
Next Shs. 139,043	20%	Next Shs. 200,000	20%
Next Shs. 139,043	25%	Over Shs. 688,000	25%
Over Shs. 564,709	30%		-

Withdrawals after expiry of fifteen years of joining the pension

Old tax bands		New tax Bands	
Band	Tax rate	Band	Tax rate
First Shs. 400,000	10%	First Shs. 400,000	10%
Next Shs. 400,000	15%	Next Shs. 400,000	15%
Next Shs. 400,000	20%	Next Shs. 400,000	20%
Next Shs. 400,000	25%	Over Shs. 1,200,000	25%
Over Shs. 1,200,000	30%		-

These proposed changes will bring a respite to employed Kenyans whose disposable income will increase. We hope this helps spur the economy into a growth mode as consumer spending will rise.

VALUE ADDED TAX ACT PROPOSALS

Goods exempted from VAT:

The Bill proposes to exempt the following goods (these were previously zero-rated):

- Ordinary bread
- milk and cream *(not concentrated nor containing added sugar or other sweetening matter)*
- *Vaccines and medicaments*

This is likely to increase prices as producers will pass on the cost of unclaimed VAT (which was previously refunded through VAT claims) to consumers. Given that the above are largely essential supplies for the population at all levels, this change is contrary to the objective of the proposed tax measures.

Goods chargeable to VAT:

The Bill proposes that the following goods be subject to VAT at the standard rate (previously either exempt or zero-rated):

- The supply of liquefied gas and propane
- Inputs to manufacturers of agricultural pest control products
- Inputs for manufacture of solar and automotive batteries
- Agricultural pest control products
- Fertilisers (under Chapter 31 of the EAC Common External Tariffs)
- Plant and machinery used by manufacturers (under Chapter 84 & 85 of the EAC Common External Tariffs)
- Supplies (excluding motor vehicles) used in the construction of an approved power generating plant
- Supplies (excluding motor vehicles) used in geothermal, oil or mining prospection and exploration
- Supplies (excluding motor vehicles) used in the construction of approved liquefied petroleum gas storage facilities
- Helicopters, light aircraft, spare parts, simulators and related accessories
- Man-made fishing nets
- Mosquito nets
- Materials wastes, residues and by-products used in animal feeds
- Specialised solar equipment and accessories, including raw materials and inputs for the manufacture of solar equipment and deep-cycle sealed batteries

- Specialised solar equipment and accessories, including raw materials and inputs for the manufacture of solar equipment and deep-cycle sealed batteries
- Tractors
- Aircraft tyres
- Biogas, plastic bag biogas digesters and leasing of biogas equipment
- Parts for assembly of primary school laptops
- Good for the construction of industrial parks exceeding 100 acres
- Inputs and raw materials for manufacture of agricultural machinery and implements
- Museum and natural history exhibits, equipment and chemicals, films a used by National Museums
- Goods for use in construction of approved recreational parks exceeding 50 acres
- Good and inputs in the assemble, manufacture and repair of clean cooking stoves
- Stoves, cookers, barbeques, gas rings and related non-electric products
- Inputs used for the manufacture of pesticides
- Materials used for the construction of grain storage
- The transfer of business as a going concern
- Supplies to marine fisheries and fish processors
- Goods for the implementation of projects under a special operating framework with the Government
- Motor vehicle importation exemption for returning public officers on foreign missions
- Plant and machinery used in the construction of plastic recycling plants

Fertilisers and pesticides used by farmers, many of whose produce is exempted from VAT. These changes will lead to an increase in prices and add to inflationary pressures as farmers are likely to pass on the added cost to the end-consumers. This change is also contrary to the food security priority of the Government. Taxing products such as LPG, biogas and solar are not in tandem with environmental and forestry protection objectives of the Government. Transfer of business as a going concern is a mechanism used worldwide and is normally exempt from VAT. Bringing this to tax is likely to have an impact on mergers and acquisitions in the economy and the much needed amalgamation in certain sectors.

Services chargeable to VAT:

The Bill proposes that the following goods be subject to VAT at the standard rate (previously either exempt or zero-rated):

- Insurance agency, insurance brokerage, stock exchange brokerage services;
- Hiring, leasing and charters of helicopters
- Services for the construction of industrial parks exceeding 100 acres
- Entry fees into national parks and reserves
- The services of tour operators
- Services for use in construction of approved recreational parks exceeding 50 acres
- Services used in the construction of approved liquefied petroleum gas storage facilities
- Asset transfers and other transactions related to transfer of assets into real estate investment trusts (REITs) and asset backed securities.
- Services for the implementation of projects under a special operating framework with the Government

The above changes assume that are aimed at increasing the VAT base for government. These changes will slow down the post-Covid-19 economic recovery plans.

Definition of ordinary bread:

Definition of 'ordinary bread' (*bread containing only the following ingredients: wheat flour, sugar, salt, yeast, fat or oil, bread improver, preservatives and water) proposed to be inserted into the VAT Act.*

Introduction of the definition in the VAT Act now clarifies that any bread, including speciality bread that has any other ingredient other than specified in the definition will be chargeable to 14% VAT.

Calculation of taxable value for petroleum, natural gas and related products:

The Bill proposes that excise duty, fees and other charges for petroleum, natural gas and related products (as included in Section B, Part I of the First Schedule) should no longer be excluded from the calculation of VAT as is currently the case.

This will increase the price of fuel and in turn the price of transportation of people and products and add to inflationary pressure to the economy. This change will no doubt erode the benefits that was intended by reduction of VAT rate to 14%.

PART V: PKF KENYA LLP SUMMARY OF PROPOSED AMENDMENTS TO KENYA TAX LAWS

VAT refunds on bad debts:

The Bill proposes to reduces the maximum period in which a taxpayer can apply for a VAT refund on bad debts to within four years of the date of supply (currently five years from date of supply). This provides a window of only 12 months during which a refund application can be made given that the bad debt needs to be at least 3 years old before being eligible for refund.

Credit notes:

The proposed amendment seeks to allow for the issuance of a credit note in the event of a dispute, within 30 days after the determination of the dispute. This is a welcome proposal as it will provide much needed relief in cases of long term disputes that are a characteristic of our judicial system.

Record keeping:

The Bill proposes to extend the requirement of keeping records for a five-year period to every person (individual, company, partnership, association of persons, trust, estate, the Government, a foreign government, or a political subdivision of the Government or foreign government). This is likely to place additional administration burden on all taxpayers.

TAX PROCEDURES ACT PROPOSAL

Appointment of financial institutions licensed under the Banking Act to act as agents for revenue collection services:

The Bill proposes to empower the Commissioner to appoint a person registered under the Banking Act to act as an agent for revenue banking services through an agreement, including proposing the introduction of penalties for non-timely remittances of taxes collected. Currently, no legal basis for the same exists. This will enhance enforcement measures by the government on collection of tax revenues. However, such agents would be penalized for late remittances to the government which might be a disincentive for them.

Response timeframes for private rulings:

The Bill proposes to delete the current timeframe (45 days) in which the Commissioner is required to respond to requests for Private Rulings. Given the ever increasing complexity of tax treatments and legislation, and ever increasing number of taxpayers rely on private rulings as part of normal business practise as a method to ensure tax compliance and particularly prior to making investment decisions. Elimination of the time limit and uncertainty of a response time would be counterproductive.

Publication of private rulings:

The Bill proposes to repeal the requirement for the Commissioner to publish private rulings in the local newspapers. This proposed amendment now disallows taxpayers to use these published rulings as binding. Whilst it is clear that this requirement was near impossible to comply with given the number of such rulings and the volume in certain cases, the lack of an alternative publication process (e.g. online), it takes away a wider benefit to taxpayers in general.

Turnover Tax penalties reduced:

The Bill proposes to reduce the late return submission penalty for Turnover Tax to KES 1,000 as opposed to KES 5,000. This will ease the burden on small businesses.

EXCISE DUTIES ACT PROPOSAL

Excise duties on local products:

The Bill proposes to apply excise duty following whether imported or not:

- Sugar confectionery of tariff 17.04
- White chocolate in blocs, slabs or bars of tariff 1806.31.00, 1806.32.00, 1806.90.00

Previously, this was only applicable to imports. If adopted there will be excise duty on locally manufactured sugar confectionery and chocolate products which would affect the competitiveness of the local market since there will be no difference in pricing with similar imported products.

Withdrawal of exemptions:

The Bill proposes the removal of the following exemptions:

- Goods imported or purchased locally for direct and exclusive use in the implementation of projects under special operating framework arrangements with the Government.
- One personal motor vehicle imported by a public officer returning from a mission abroad and another one by their spouse

This is in line with other amendments throughout the Bill.

PART V: PKF KENYA LLP SUMMARY OF PROPOSED AMENDMENTS TO KENYA TAX LAWS

MISCELLANEOUS FEES AND LEVIES ACT PROPOSALS

Import Declaration Fees (IDF):

The Bill proposes to remove the preferential rate of IDF at 1.5% (normal rate 3.5%) accorded to the importation of raw materials and intermediate products imported by approved manufacturers. This increase in rate will no doubt increase costs of doing business, which will be passed on to the end consumers.

Import Declaration Fees (IDF) and Rail Development Levy (RDL) exemptions withdrawn:

The Bill proposes to remove exemptions for:

- gifts or donations, excluding motor vehicles, by foreign residents to their relatives in Kenya for their personal use;
- samples which in the opinion of the Commissioner have no commercial value;
- Aircraft of un-laden weight not exceeding 2,000kg and helicopters of heading 8802.11.00 and 8802.12.00
- raw materials for direct and exclusive use in construction by developers or investors in industrial parks
- goods imported for the construction of liquefied petroleum gas storage facilities
- goods imported for implementation of projects under the special operating framework arrangement with the government

This is aimed at enhancing revenue collection.

Processing fees for duty free motor vehicles:

The Bill proposes to introduce a fee of Shs. 10,000 on all motor vehicles excluding motorcycles imported or purchased duty free prior to clearance by certain privileged persons. This is aimed at enhancing revenue collection.

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