I&M Burbidge Capital

MARKET UPDATE BULLETIN

covering 15th June 2020 and the week ending 12th June 2020

Foreword &Commentary

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.

Weekly Market Commentary

In what was another busy week in the corporate transactions market, there were 5 deal announcements in East Africa last week and one fundraising announcement. The deals were largely PE and DFI led investments as well as an M&A transaction in the financial services sector. The key highlight of the week was the reading of the 2020/21 budgets for Kenya, Tanzania and Uganda. In Kenya, the picture became clearer on the government's move from an income based tax strategy to a transactional/revenue based strategy. There did not appear to be proposals to amend the current CGT regime. We present an analysis of the budget from PKF in this edition of the bulletin.

Quote of the day

"The world is changing very fast. Big will not beat small anymore. It will be the fast beating the slow.

- Rupert Murdoch

PART I : DEALS & CORPORATE DEVELOPMENTS

15th June 2020

Kenya

Economy

Petrol prices rise as kerosene, diesel fall

Petrol prices in Nairobi have risen by the widest margin in four years to sell at KES 5.77 higher per litre, even as diesel and kerosene prices dropped by KES 3.80 and KES 17.31 respectively in changes announced by the energy regulator on Sunday. The rise in petrol prices, driven by recovery on the international crude oil market, now reverses three months of a steep drop in prices that saw the product sell KES 18 per litre cheaper in April.

Source: Business Daily

Regional

Economy

Uganda's USD 12 Billion budget offers tax waivers, credit access to SMEs

In a bid to get the Ugandan economy moving again after nearly three months of lockdown to curb the spread of coronavirus, the government on June 11 presented a budget offering a host of tax waivers and funding for the business community. The plan to boost economic recovery seeks to support the agriculture sector for food security and export, make credit accessible to small businesses, give tax holidays to firms and put money directly into people's pockets.

Source: The East African

Tanzania USD 15 Billion budget banks on a quick economic recovery

Tanzania's Finance minister on June 11 unveiled the most optimistic 2020/2021 budget of TZS 34.88 trillion (USD 15.09 billion) in the region, predicting a quick economic recovery, amid hope of fruitful discussions with external creditors.

Source: The East African

PART II: TREASURY UPDATE
For the week ending 12th June 2020

LOCAL MARKET

The Kenya Shilling traded mixed against the U.S Dollar during the week ending 12th June. The local unit closed at 106.10 / 106.60 In the local equities market, the main NSE 20 share closed the week at 2,011.77, 72.18 points higher while in the secondary market bonds worth KES 11.7 billion were transacted, higher than KES 9.4 billion traded the previous week.

CENTRAL BANK UPDATE

For the week ending 12th June 2020, the interbank money market was liquid. The average volumes traded decreased to KES 3.080 billion against KES 9.222 billion traded in the previous week. Central bank of Kenya withdrew Kes.95.00 billion via the 7 and 14 days Term Auction Deposits.

The Treasury bills auctions of June 11th received bids totalling KES 69.722 billion against an advertised amount of KES 24.0 billion representing a performance of 290.51%. The auction saw the 91,182 and 364 day rates decrease to 7.259%, 8.060% and 9.030% respectively. The total amount raised increased to KES 22.848 billion against KES 17.782 billion raised in the previous week.

INTERNATIONAL MARKET OVERVIEW

Trading on the U.S Dollar against other major currencies during the week was mixed. The Dollar was weaker at the start of the week as risk sentiments improved on a possible economic recovery from the Coronavirus pandemic despite better than expected May U.S jobs report. Focus shifted to the outcome U.S Federal Reserve policy meeting in which the policymakers left the benchmark rate unchanged at 0.25 percent and signalled that rates would be maintained in the target range of 0 percent to 0.25 percent through 2022. The Federal Reserve also pledged to continue with its asset purchase program with an aim of stabilizing the U.S economy. The Dollar however gained ground following a fall in the global stock prices due to the gloomy economic outlook from the Federal Reserve on Wednesday after the conclusion of the two-day policy meeting. There had been reduced expectations that the global economy was recovering progressively from the Coronavirus pandemic as Investors still remained cautious with new infections rising slightly after several weeks of decline.
The Sterling Pound gained against the Dollar, being supported by a possible plan to ease lockdown restrictions as Investors are still waiting for more information about the proposed re-opening of the UK economy. The Pound strength has mainly been supported by shifts in global risk appetite, Dollar weakness and Domestic issues such as the Brexit. Britain and the European Union have until December which is the end of transition period to negotiate a future trade deal. The Pound was however weighed down by Brexit related concerns as risks of the U.K leaving the European Union without a trade deal increased. Britain and the EU have made little progress on the Brexit negotiations and have until the end of June to request for an extension of the transition period. The Pound last trade 1.2487, 0.9 percent lower against the Dollar following a release of negative economic data.
The Euro traded mixed against the Dollar during the week. A release of economic data showed German Industrial output dropped in the month of April as companies in the Euro zone scaled back on production due to the pandemic. Concerns about the progress in the ongoing trade talks between Britain and the European Union continue to have some effects on both the Euro and Pound.

Source: I&M Bank Limited

PREVAILING TREASURY BILLS YIELD & INFLATION

Country				
91 Day T-Bill	7.259	8.886	2.990	6.264
182 Day T-Bill	8.060	10.999	3.500	6.657
364 Day T-Bill	9.030	12.269	4.700	8.021
Inflation Data	5.50	3.20	3.30	8.00

KES INDICATIVE EXCHANGE RATES AT MARKET OPEN

Currency	Country	Bank Buy	Bank Sell
USD		105.45	106.85
GBP		131.70	133.70
EUR		118.40	120.40
CHF		110.60	112.60
JPY		0.9900	1.0030
ZAR		5.50	6.60
INR		-	1.4150
CNH		-	17.60
RWF		5.00	12.00

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	1,585.00
Murban Crude Oil	USD/barrel	32.25
Coffee	US Cents/lb.	97.00
Wheat	US Cents/Bushel	504.50
Corn	US Cents/Bushel	334.00

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PART III: EQUITIES AND BOND TRADING - NSE

For the week ending 15th June 2020

WEEKLY MARKET COMMENTARY

The NSE All Share Index and the NSE20 share index gained 0.77% and 0.84% to close Friday at 142.88 and 2,011.77 basis points respectively. The NSE25 share index however shed 0.03% to close at 3,2852.90 basis points. Week on week, all the benchmark NSE Share indices gained as detailed in the table below. Equity turnover on Friday increased by 211.36% to KES 1.12 billion from KES 357.7 million recorded in the previous session. Volumes also recorded a significant rise to 47.2 million shares against Thursday's 17.11 million shares. The top movers in Friday's session were Safaricom, KCB Group and Equity Group, contributing KES 650 Million, KES 112 Million and KES 108 Million respectively to Friday's turnover. Overall for the week, 145 million shares changes hands with a total turnover of KES 3.3 Billion up from the 98.9 million shares valued at KES 2.3 Billion transacted in previous week. Foreign investors took on a nearly neutral stance on Friday, recording 76.1% in purchases and 74.7% in sales. The foreigners were net-sellers on KCB and Equity and net-buyers on Safaricom. Secondary bond market turnover was higher, with KES 2.94 billion worth of trades having been executed, up from KES 1.17 billion traded previously. The number of deals was constant at 94. The Derivatives Market closed the week with a total of 21 contracts valued at KES 581,350. The KCB contract expiring on 18th June 2020 moved 8 contracts valued at KES 276,000. The Safaricom contract expiring on 18th June 2020 had 5 contracts transacted worth KES 149,250.

INDEX MOVEMENTS

Index	Closing	% Change Daily	%Change Weekly	% YTD
NASI	142.88	0.77	2.66	-14.14
NSE20	2,011.77	0.84	3.72	-24.21
NSE25	3,285.90	-0.03	2.66	-19.87
FTSE NSE25	186.76	0.03	1.34	-18.62

MARKET DATA

Market Data	Today	Previous
Market Cap (KES, billions)	2,183.9	2,182.4
Turnover (KES, millions)	1,114.5	357.74
Volume (millions)	47.76	17.11
Foreign Buys (%)	76.07	60.96
Foreign Sales (%)	74.68	63.67

GOVERNMENT BONDS

GOK Bonds	Rates	Traded Yield	Value Traded (million)
FXD2/2012/5	14.0690	9.3250	200.00
FXD2/2019/20	12.8730	12.9500	300.00
IFB1/2020/6	10.2000	11.0000	300.00

MOVERS

Movers	Volume (million)	Turnover (million)	VWAP
Safaricom Plc	21.34	649.85	30.45
KCB Group Plc	3.20	112.08	35.00
Equity Group Holdings Plc	3.09	107.80	34.85

Source: Faida Investment Bank

PART IV: WEEKLY SUMMARY OF DEALS

For the week ending 12th June 2020

EAST AFRICA DEALS OF THE WEEK & FUNDRAISING ANNOUNCEMENTS						
Target Company / Fund	**Acquirer Company/Investor**	**Deal Type**	**Synopsis**	**Deal Value (USD Million)**	**Sector**	**Country/Region**
AIB	ApexAfrica	M&A	The merger between stockbrokers ApexAfrica Capital and AIB has moved a step closer with the firms reporting they have received regulatory approvals for the tie-up. They are targeting end-month for the conclusion of the merger, which will see ApexAfrica client accounts migrated to AIB, which will be the operating company for the new entity.	Undisclosed	Financial Services	Kenya
Brighter Life Kenya	Solar Frontier Capital	Fundraising	Solar Frontier Capital (SFC), a wholly-owned subsidiary of African Frontier Capital (AFC), and d.light, a global innovator of solar energy products, have jointly announced the establishment of a USD 65 Million financing vehicle, Brighter Life Kenya 1 Limited (BLK1).	65	Energy	Kenya
-	DFC	Fundraising	The U.S. International Development Finance Corporation (DFC) board of directors has approved USD 1 Billion of investments that will advance development in Africa, Latin America, the Indo-Pacific, and emerging markets across the globe. The investments mark one of the largest tranches approved during a board meeting under DFC and its predecessor agency.	Undisclosed	Financial Services	Kenya
Turaco	Ethos/Proparco	PE	Ethos Mezzanine Partners and the French development finance institution, Proparco, have announced a USD 22 million investment into Turaco, a holding company managed by 54 Capital PE Advisors, which holds a portfolio of FMCG assets in Ethiopia. The business manufactures and sells edible sunflower and soya oil under the brand name Tena, as well as soaps and detergents and personal care products, including laundry soaps and perfumed toilet soaps, under the brand names 555 and Aura.	22	Agriculture	Ethiopia
DFC	AfricInvest Fund IV	Fundraising	The U.S. International Development Finance Corporation (DFC) has approved an investment of up to USD 30 Million in the AfricInvest Fund IV. The fund will invest in businesses in highly developmental sectors such as healthcare and financial services across Côte d'Ivoire, Kenya, Nigeria, Egypt, and other African countries.	30	Healthcare / Financial Services	Kenya

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PARTV : PKF LLP SUMMARY OF 2020/2021 KENYA BUDGET
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THE FINANCE BILL, 2020

The Finance Bill, 2020 (Bill) was submitted previously to the National Assembly detailing various tax and fiscal proposals. In the past, the Bill was tabled to the National Assembly on the same day as the budget speech. This has now changed and the Bill has to be tabled to the National Assembly ahead of the budget statement and must be enacted by 30 June 2020, instead of 30 September as done in the past.

The effective dates for the various proposed changes will be stipulated in the Act, although the Bill does have indicative dates.

Income Tax

Residential Rental Income Tax (Proposed effective date - 1 January 2021)

The Bill proposes to increase the upper limit for residential rental income from KES 10 Million to KES 15 Million per annum. Persons earning residential rental income of between KES 144,000 and KES 15 Million per annum will have to pay residential rental income tax at the rate of 10% as final tax unless they elect to apply the normal basis of paying full corporate tax on the taxable profit. The Treasury has found that this method of taxation of residential rental income effective and therefore increased the limits to net more landlords.

Minimum tax - overtaxing Kenyans? (Proposed effective date - 1 January 2021)

The Bill proposes to introduce a new tax known as minimum tax at a rate of 1% on the annual gross turnover. The Cabinet Secretary attempted to justify this by insinuating that the change is targeting perpetual loss making companies. This proposal is unrealistic as it goes against the basic principle of levying taxes only when taxable income is earned. It is not clear if the intention is to allow a taxpayer to recoup this tax against future tax once the business generates income higher than the proposed minimum tax threshold.

Instalment taxes would be calculated and paid normally unless this minimum tax is higher than the instalment tax calculated. The Bill seems to have an error on the minimum tax section which is opposite to the change made for instalment tax as it seems to say that this minimum tax is payable even if the instalment tax is higher!!. This will probably get corrected when at the Committee stage. The timing of the payment of this minimum tax is similar to that of instalment taxes. That is in the fourth, sixth, ninth and twelfth month of the year of income.

The minimum tax will not be applicable on:

- incomes that is exempt from tax;
- employment income;
- income subject to turnover tax;
- residential rental income;
- gains from property transfers that are subject to Capital Gains Tax; and
- income earned from the extractive industry.

Taxation of e-commerce - chasing an illusory goal? (Proposed effective date - 1 January 2021)

The Bill proposes to introduce digital service tax for persons earning income through the digital market place. The tax will be payable at the rate of 1.5% of the gross transaction value at the point of transferring payment to the service providers. Resident persons and Permanent Establishments of non- resident persons will offset the digital service tax against income tax payable for that particular year of income. Whereas this is a noble change, the administration of this tax remains a challenge due to the nature of digital services. For example, subscriptions to digital TV services from a non-resident supplier through a credit card system for the mass market would be very difficult to be taxed under this digital service tax. Currently, a global conversation is ongoing through the OECD on the best way of taxing digital services. Due to the complexity involved, no consensus has been reached yet. Although the Finance Act, 2019 introduced the provision to tax income earned through a digital market place, there was no clarity on how non-resident persons would be taxed. The proposed introduction of the 1.5% tax rate on gross transaction value is intended to bring non-residents to the tax net and also get advance taxes from resident persons and Permanent Establishments of non-resident persons in Kenya. In an effort to address the envisaged administrative challenges, there is a proposal to grant the Commissioner powers to appoint digital service agents for purposes of collection of the digital service tax.

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Is Caesar targeting more than his rightful share? (Proposed effective date - 1 January 2021)

The Bill proposes to disallow the following expenses that are currently allowable deductions for tax purposes:

- Registration and annual subscription fees for trade associations;
- Capital expenses incurred on legal costs and incidental expenses relating to:
  - authorisation and issue of shares, debentures and other securities for purchase by the general public
  - listing on a securities exchange operating in Kenya without raising additional capital
- Capital expenses incurred on rating for purposes of listing on any securities exchange in Kenya;
- Club subscriptions paid by an employer on behalf of an employee; and
- Capital expenditure incurred, upon approval by the Minister, on construction of public school, hospital, road and similar social infrastructure.

This proposal demonstrates a clear intent by the government to shore up tax collection to tame the increasing budget deficit. The proposal to restrict deduction of expenses incurred on social infrastructure might lead to corporates slowing down on corporate social responsibility projects that provide necessary social infrastructure mainly to the less privileged members of the society. Further, restricting deductibility of expenses incurred towards listing and capital raising at the Nairobi Securities Exchange (NSE) will raise the cost associated with such activities, which might further reduce activity at the NSE.

Registered Home Ownership Savings Plans - killing the Big 4 Agenda? (Proposed effective date - 1 January 2021)

The Bill proposes to scrap the provision on registered Home Ownership Savings Plan (HOSP), which allows depositors to enjoy a tax deduction of up to KES 96,000 per annum (KES 8,000 per month) on deposits placed with an approved institution. Additionally, the Bill proposes to get rid of the income tax exemption enjoyed by a registered HOSP. These proposals are against the government's big four agenda on affordable housing which is aimed at ensuring Kenyans have access to affordable houses.

Income tax exemptions scrapped - twisted logic? (Proposed effective date is 1 January 2021)

The Bill proposes to scrap the following tax exemptions:

Exemption	Implication
Income of the National Social Security Fund (NSSF) provided that the Fund complies with such conditions as may be prescribed	NSSF income will be subject to corporate income tax at the rate of 25%. This will have a negative impact on interest earned on employees' savings because NSSF might consider adjusting or reducing the interest accrued to members' accounts with the tax paid
Monthly pension granted to a person who is sixty-five years of age or more	This will discourage savings into pension plans and the long-term effect would leave aged members of the society with little or no income
Income from employment paid in the form of bonuses, overtime and retirement benefits; provided that this paragraph shall only apply to employees whose taxable employment income before bonus and overtime allowances does not exceed the lowest tax band provided under Head B of the Third Schedule	Bonuses, overtime and retirement benefits paid to persons earning income that does not exceed the lowest tax band will no longer be tax exempt if the Bill is passed into law. However, the recent introduction of exemption from Pay As You Earn for employees earning less than KShs 24,000 should take care of this to some extent.

VALUE ADDED TAX CHANGES

Streamlining deductibility of input VAT - (Proposed effective date would be the date of assent)

The Bill proposes to introduce stringent restrictions on deductibility of input VAT by taxpayers. The amendment seeks to bar taxpayers from claiming input VAT on purchases if suppliers have not declared output VAT on the sales invoices in their VAT returns. This is in addition to the previous condition where taxpayers are not allowed to claim input VAT if they are not in possession of supporting documents. It is a double edged sword on the purchaser as they would have not only made payments for the VAT but are now also not allowed to claim back the same. The six- month period for claiming input VAT remains unchanged.

This proposal is not practical since it would introduce administrative challenges where purchasers would have to keep checking with suppliers before they can claim input VAT. It completely goes against the basic principles of VAT and provided purchasers are allowed to claim input VAT within six months there will always be cases of mismatch.

This proposal is forcing both suppliers and purchasers to match their output and input VAT declarations each month, which practically and legally is not reasonable. It overlooks the six-month period within which purchasers can claim input VAT and the inability by certain suppliers to declare output VAT on an invoice by invoice basis. This is all linked to ongoing VAT Auto Assessments being issued to all taxpayers. It is high time KRA streamlined the Tax Invoice Management System (TIMS) which is supposed to deal with all these VAT inconsistencies issues including easing the administrative burden on taxpayers

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Reclassification of goods and services from VAT exempt status to standard rated - (Proposed effective date would be the date of assent)

If this proposal is enacted the following goods and services would be subject to VAT at the rate of 14%:
Helicopters of an un-laden weight not exceeding 2,000 kgs of tariff 8802.11.00
Helicopters of an un-laden weight exceeding 2,000 kgs of tariff 8802.12.00
Aeroplanes and other aircraft, of un-laden weight not exceeding 2,000 kgs of tariff 8802.20.00
Other parts of aeroplanes and helicopters of tariff 8803.30.00
Aircraft launching gear and parts thereof; deck-arrestor or similar gear and parts thereof of tariff 8805.10.00
Air combat simulators and parts thereof of tariff 8805.21.00
Other ground flying trainers and parts thereof of tariff 8805.29.00
Specialized equipment for the development and generation of solar and wind energy, including deep cycle batteries which use or store solar power
Tractors other than road tractors for semitrailers
Goods of tariff 4011.30
Taxable goods locally purchased or imported by manufacturers or importers of clean cooking stoves for direct and exclusive use in the assembly, manufacture or repair of clean cook stoves
Stoves, ranges, grates, cookers (including those with subsidiary boilers for central heating) barbeques, braziers, gas-rings, plate warmers and similar nonelectric domestic appliances, and parts thereof, or iron or steel of tariff numbers 7321.11.00, 7321.12.00, 7321.19.00, 7321.81.00, 7321.82.00, 7321.83.00 and 7321.90.00
One personal motor vehicle, excluding buses and minibuses of seating capacity of more than eight seats, imported by a public officer returning from a posting on a Kenyan mission abroad and another motor vehicle by his spouse
Plant, machinery and equipment used in the construction of a plastics recycling plant
Hiring, leasing and chartering of helicopters of tariffs 8802.11.00 and 8802.12.00

These proposed amendments touch on some key sectors of the Kenyan economy, notably agriculture, aviation and renewable energy. Whilst standard rating the above items will allow the suppliers to claim input VAT on purchases it is still expected that the end customers will bear additional costs associated with VAT charged making these items more expensive. It also means that taxpayers whose output is zero rated would be in a refund position because of this input VAT.

Reclassification of goods and services from standard rate to exempt status - (Proposed effective date would be the date of assent)

Item reclassified	Implication
Maize/corn seeds under tariff no. 1005.10	Increased maize production resulting from cheaper inputs
Ambulance services	Enhanced affordability of health services

The government's intention is to make the above items affordable but there is need to analyse if the impact on input VAT on purchases that cannot be claimed could have an impact on the costs to the end consumer.

Reclassification of zero-rated supplies to standard rate - (Proposed effective date would be the date of assent)

Item reclassified	Implication
Supply of liquefied petroleum gas (LPGs) including propane	Increased cost to the final consumer, possibly pushing the use of unclean energy which the government has been trying to avert
Inputs or raw materials for electric accumulators and separators including lead battery separator rolls whether or not rectangular or square supplied to manufacturers of automotive and solar batteries in Kenya	This will result in more revenue for the government, however the products will be more expensive

PKF

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VAT on e-commerce

Further to the proposed Digital Service Tax under the Income Tax proposal, the Government has drafted Value Added Tax (Digital Marketplace Supply) Regulations, 2020. These will deal with levying of VAT on these e-commerce transactions. The main points from these draft regulations are:

- The VAT will apply to taxable services supplied in Kenya through a digital marketplace
- The scope of this charge provides a large non- exhaustive list of items that fall in the scope – digital content; e-books; subscriptions; software; films, music, games; tickets for events; e-learning; digital content; etc
- Simpler mechanism introduced with no input claims allowed and no need for ETR invoices but normal invoice will be needed
- Determination of supply will be based on:
  - Recipient must be based in Kenya
  - Payment proxy (credit card or bank account) must be in Kenya
  - Residence proxy (billing, home or IP address; mobile country code) must be in Kenya

The time of supply will be the earlier of payment or invoice issuance

EXCISE DUTY

Definition of "Licence" expanded -(Proposed effective date would be the date of assent)

The definition of licence has been expanded to capture all activities i.e. services, goods and any other activity that require excise duty licensing in Kenya. This change clarifies and removes ambiguity on the licence requirements for excise duty purposes in Kenya.

Excise duty on alcoholic drinks enhanced - (Proposed effective date would be the date of assent)

Currently, alcoholic beverages i.e. beers, cider, perry etc. with an alcohol strength of 10% or less attract excise duty of KES 105.20 per litre. On the other hand, spirits and spirituous beverages with an alcoholic strength exceeding 10% attracts excise duty at KES 253 per litre.
The proposed change amends the alcoholic strength threshold in both cases from 10% to 8% and therefore, alcoholic beverages and spirits with an alcoholic content of above 8% will now attract excise duty at the higher rate of KES 253 per litre.
This is expected to increase government revenue from alcoholic beverages and spirits.

TAX PROCEDURES ACT

Finally! A local tax amnesty (Proposed effective date - 1 January 2021)

The Bill proposes to introduce a Voluntary Tax Disclosure Program. Under this program, taxpayers would be required to disclose their past tax liabilities to the Commissioner in exchange for relief from penalties and interests accrued on the disclosed principal taxes. The program is for a period of five years prior to 1 July 2020, which seems to be aligned to the five-year period taxpayers are required to maintain records. The program will commence from 1 January 2021 and will be available for uptake for a period of three years. In addition, taxpayers qualifying for relief of penalties and interest under the proposed program would not be prosecuted with respect to the tax liability disclosed if the bill is passed into law as is currently drafted.
Notably, the extent of the remission of the penalties and interest due would be dependent on the year the disclosure and principal tax is paid under the program as follows:

- If disclosure and payment of the principal tax is in the first year, taxpayers who qualify would be granted 100% waiver of the resultant penalties and interest;
- If in year two, the waiver would be 50%; and
- If in year three, the waiver would be 25%.

It is imperative for taxpayers to disclose all material facts otherwise they would risk not getting approvals or KRA would demand the penalties and interest even if approval for the waiver had previously been granted. The program would not be applicable to persons who end up in refund positions after taking it up. In summary, this points to a tax amnesty that seeks to waive penalties and interest up to 100% if disclosure and payment is made in the first year.
The proposed tax amnesty only grants relief for accrued penalties and interests but principal tax has to be paid. This is unlike the foreign tax amnesty introduced in 2016 which had no taxes or penalties and interest cost levied. Through this proposed amnesty, the government would collect untaxed incomes dating back five years while also securing revenues for the future from non-compliant taxpayers. This should ultimately widen the tax net though the economic challenges imposed by COVID-19 would interfere with realization of increased tax collections in the short-term.

We implore the government to give favourable payment plans to taxpayers willing to take up the local amnesty and offer 100% remission on penalties and interests despite the year of settlement of the principal taxes.

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MISCELLANEOUS FEES AND LEVIES

Under the Bill, Import Declaration Fee (IDF) and Railway Development Levy (RDL) charges are proposed to be amended as follows:

IDF - (Proposed effective date would be the date of assent)

Item	Current Rate	Proposed Rate
Goods imported under the East African Community Duty Remission Scheme	KShs. 10,000	1.5% of the customs value
Additional import duty payable in respect of goods entered for home use from an export processing zones enterprises	N/A	2.5% of the customs value
Aircraft of un-laden weight not exceeding 2,000 kgs and Helicopters of tariffs 8802.11.00 and 8802.12.00	Exempt	3.5%
Goods as the Cabinet Secretary may determine are in public interest, or to promote investments which value shall not be less than KShs 200 million	Exempt	3.5%
Goods imported for implementation of projects under special operating framework arrangement with the Government	Exempt	3.5%
Goods including materials supplies, equipment, machinery and motor vehicles for the official use by the Kenya Defense Forces and National Police	3.5%	Exempt

RDL - (Proposed effective date would be the date of assent)

Item	Current Rate	Proposed Rate
Currency notes and coins imported by the Central Bank of Kenya	3.5%	Exempt
Goods, including materials supplies, equipment, machinery and motor vehicles for the official use by the Kenya Defence Forces and National Police	3.5%	Exempt
Goods as the Cabinet Secretary may determine are in public interest, or to promote investments whose value exceeds KShs 200 million	Exempt	3.5%

These proposed changes are intended to generate more revenues for the government. These seem to be long-term plans but are not sensible during these difficult times under COVID-19.

TAX APPEALS TRIBUNAL

Expanded tax appeals procedures (Proposed effective date would be the date of assent)

The Bill proposes to introduce a provision that would allow an appellant to rely on grounds stated in its documents and not only on the grounds stated in the appeal. This proposed amendment will ensure fair hearing to appellants at the Tax Appeals Tribunal since all material facts will be considered. In an effort to address the envisaged administrative challenges, there is a proposal to grant the Commissioner powers to appoint digital service agents for purposes of collection of the digital service tax.

KENYA REVENUE AUTHORITY

Proposed introduction of time limits to sue KRA (Proposed effective date would be the date of assent)

This proposed change will enable KRA effectively manage its disputes; consequently, preventing persons from lodging suits against KRA after a specified timeline. In our view this is a retrogressive proposal in an era where KRA should be promoting and facilitating trade to enable taxpayers to comply with their obligations. The legality and constitutionality of this proposal can also be challenged.

Capacity building and training of KRA officers (Proposed effective date would be the date of assent)

There is a proposal to introduce a legal framework for the establishment of an institution to offer capacity building and training on tax, customs and revenue administration. This proposal will enable KRA to streamline its capacity building and training programs. With the existence of KESRA and the programs it offers, it is expected that KESRA is already a registered institution under the TVET Act. This proposal, therefore, raises questions on the legality of KESRA.

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CUSTOMS DUTIES

The customs duties changes agreed at the East African Community level and that are expected to take effect from 1 July 2020 are as follows:

Item	Proposed Amendment
Imported iron and steel products	35% import duty for another year
Paper and paper board products	25% import duty for another year
Inputs for manufacture of baby diapers	Exempt from import duty
Inputs for use in manufacture of new clothing and apparel	Exempt from import duty
Inputs for assembly or manufacture of mobile phones	Exempt from import duty
Imported leather and footwear	25% import duty for another year
Imported electrical parts and accessories	Import duty increase from 25% to 35%
Raw materials and inputs for manufacture of masks, sanitizers, ventilators and personal protective equipment	Import duty remission
Supplies for diagnosis, prevention, treatment and management of epidemics, pandemics and health hazards	Exempt from import duty

These proposed changes are aimed at protecting the local industries and for current and future epidemic preparedness.

MISCELLANEOUS PROPOSALS

The CS to the National Treasury proposed changes to various other legislation with an aim of strengthening legislation and adding clarity.

The Public Road Tolls Act - back to the late-80's to mid-90's

The CS has proposed various changes to the Public Road Tolls Act giving clear indication of what lies ahead for public road users in the country. A National Road Toll Fund will be established under the Public Finance Management Act, 2012 to collect and administer the toll collected.

In line with the theme of enhancing Public Private Partnership (PPP), the proposals also allow private companies (duly registered under the Act) to be toll collectors including providing enhanced rights to collect tolls from defaulters. If managed well this is likely to enhance the quality of roads in the country, it is important to note that motorists are already levied a Road Maintenance Levy on every litre of fuel purchased. The collection of both the road toll and maintenance levy will increase operating costs for all road users.

Road Maintenance Levy Fund Act

Further to the amendments proposed to the Public Road Toll Act, the CS has proposed to move all transit tolls collected to the National Roads Toll Fund. These were previously collected under the Road Maintenance Levy Fund.

The Capital Markets Act - enhancement of regulatory oversight

The CS has proposed to bring private equity and venture capital firms that access public funds under the regulatory oversight of the Capital Markets Authority. Payment of unclaimed dividends to beneficiaries when they resurface has now been moved to the Unclaimed Financial Assets Authority from the Investor Compensation Fund. This change is to align the functions of unclaimed assets to the right authority.

The Retirement Benefits Act – enhancement of supervisory role

The CS proposes to empower the Retirement Benefit Authority to charge penalties of KES 100,000 and an additional daily penalty of KES 1,000 per day for failure to submit actuarial valuation reports as required.

The Insurance Act – M&A activity likely to increase

The CS proposed an amendment to clarify the time limit of 30 days to make an appeal to the Insurance Tribunal by a dissatisfied party on a decision by the Commissioner of Insurance. No extensions or repeal of the new Risk Based Capital guidelines (effective from 1 July 2020) introduced in 2015 was proposed. This is likely to lead to a flurry of M&A transactions and market consolidation in the insurance industry.

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The Insolvency Act – KRA given priority

Amendment of the Act to include KRA amongst preferential claimants to reduce risk of exposure on tax revenues held by commercial banks at the point of receivership or liquidation of the bank.

The Standards Act

Changes to the definition of a 'consolidator' so as to facilitate visibility of individual consignees for the purposes of customs declaration.
The effective dates for the above amendments will be specific on enactment.

Other provisions in the speech

The CS made several other proposals in his speech:

- The National Treasury along with other stakeholders will conduct Kenya's first National Risk Assessment on Money Laundering and Terrorism Financing. This is
  - likely to lead to a strengthening of legislation around Anti Money Laundering in the future
- Operationalisation of the Nairobi International Financial Centre with a view to strengthen Kenya's position as financial hub
- Development of a Special Economic Zone Textile Park, a Leather Park in Naivasha and the Athi River Textile Hub with an aim of creating employment and pushing the Buy Kenya, Build Kenya initiative
- Public pension reforms aimed to give retirees a monthly pension rather than a monthly salary as has been the case in the past. In addition to this, the CS has indicated plans are in place to clear pension payment backlogs by the end of 2020 to pave way for a modernised pension management system, incorporating the formal and informal sectors
- Development of a National Retirement Benefits Policy to secure the rights of pension contributors and beneficiaries. The Government is also working on the establishment of a National Micro-Pension Scheme to create a model that combines long term savings with short-term needs
- Regulations have been published for the Public Procurement and Asset Disposal Act, 2015 and await Parliamentary Approval and an e-Government
  - Procurement Strategy is being formulated for roll out by December 2020
- Fast tracking the establishment of the Konza Technopolis City to position Kenya as a world class ICT hub.

SUMMARY BUDGET ALLOCATIONS

The national government will receive the highest share of the budget followed by consolidated government and county governments at 65.0%, 20.2%, and 12.9% respectively. The table below shows a summary of budget allocations over the next three years to the different arms of government and the counties.

% Share in Total Expenditure

	National Government	Consolidated Fund	Judiciary	Parliament	County Governments
2020/21	65.0%	20.2%	0.6%	1.3%	12.9%
2021/22	65.16%	22.15%	0.47%	1.27%	10.95%
2022/23	63.57%	23.77%	0.46%	1.28%	10.91%

2020/2021 BUDGETARY EXPENDITURE ALLOCATIONS

In the 2020 Budget Policy Statement, the Cabinet Secretary has set out proposals to incur a total of KES 2.8 Trillion in expenditure and net lending for the 2020/2021 fiscal year. Tax revenue has reduced from 67% in 2019 to 60% in 2020 owing to reduction in tax rates. Domestic financing and aid percentage share is expected to increase in 2020/2021. He intends to finance this through a combination of tax revenues, aid and debt.

Where is the Money going?

The gap between recurrent and development spending continues to widen with recurrent. The Public Management Act 2012 provides for development spending at a minimum of 30% of total expenditure.

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