

LEGAL ALERT

Tax & Commercial

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FINANCE BILL, 2026

What it means for Businesses in Kenya

Overview

Executive summary

The Finance Bill, 2026 (the Bill) was tabled before the National Assembly on 5th May 2026 and is currently undergoing public participation. It proposes amendments to various tax laws. Most changes are proposed to come into force on 1st July 2026, while some will be effective from 1st January 2027.

This Alert highlights proposals which businesses should pay close attention to. It is structured around five key areas: (a) key commercial changes proposed by the Bill; (b) income tax provisions that may increase business cost and risk; (c) VAT, excise duty and pricing considerations; (d) payroll and employer compliance issues; and (e) contracting, cash-flow and tax administration risks.

In summary, the Bill is mixed. Less favourably, it broadens the withholding tax (WHT) base on payment systems, software and digital infrastructure; introduces a punitive general anti-avoidance rule; shortens the corporate income tax return deadline; tightens Value Added Tax (VAT) on payment processing; removes EAC preferential treatment for a wide range of excisable goods; layers heavy penalties on virtual asset service providers; and accelerates excise on imported mobile phones.

On the positive side, it extends the successful tax amnesty program, introduces VAT exemptions for pharmaceuticals inputs, animal feed, electric vehicles and Public-Private Partnerships (PPP) infrastructure, and reduces WHT on repatriated income for non-resident licensees and contractors.

Five key proposals businesses should note are:

1. Private companies that fail to declare dividends within 12 months of year-end can be deemed to have distributed at least 60% of after-tax profits, triggering dividend WHT on retained earnings.
2. The corporate income tax self-assessment return must be filed within 4 months of year-end (down from 6).
3. A new General Anti-Avoidance Rule (GAAR) empowers KRA to disregard any "scheme" whose main purpose is a tax benefit.
4. Fees for using payment networks, card schemes, software and digital platforms will be recharacterized as royalties or management/professional fees subject to WHT.
5. VAT exemption on payment processing, merchant acquiring, gateway and aggregation services will be removed making these supplies taxable.



A. Key commercial changes proposed by the Finance Bill, 2026

Snapshot of the most commercially significant proposals

Change	Commercial impact/ Affected sectors	Direction
Tax amnesty extended to 31 Dec 2025	All taxpayers with legacy exposure	Favourable
REIT — Capital Gains Tax (CGT) and stamp duty exemption on transfers in REITs	Real estate sponsors, fund managers	Favourable
Reduced WHT on repatriated income (37.5% → 30%; 15%)	Non-resident licensees, contractors	Favourable
VAT exemptions on EVs, batteries, PPP, pharma/animal feed inputs	Manufacturers, PPP investors, fleet operators	Favourable
Gratuity contributions tax-exempt (subject to conditions)	Employers with long-service workforces	Favourable
WHT — Expanded "royalty" definition (software, payment systems)	Banks, fintechs, PSPs, importers of software	Adverse
Investment deduction phased over 10 years in equal tranches	Capital-intensive projects	Adverse
WHT — Expanded "management fee" definition to include interchange and merchant service fees	Acquirers, merchants, card scheme operators	Adverse
VAT input claim window extended from 2 → 3 years	All VAT-registered businesses	Adverse
Corporate tax return deadline shortened to 4 months	All companies and large taxpayers	Adverse
Deemed dividend on undistributed profits (≥60%)	Private companies, family businesses, holding companies	Adverse
EAC dividend WHT preferential rate removed (5% → 15%)	EAC-based investors, regional groups	Adverse

Change	Commercial impact/ Affected sectors	Direction
CGT broadened to indirect transfers (no 20% threshold)	PE funds, multinationals, cross-border M&A	Adverse
WHT on scrap metal (1.5%) and gambling winnings (20%)	Recyclers, betting and gaming operators	Adverse
Residential rental income WHT raised 7.5% → 10%	Landlords, property investors	Adverse
New General Anti-Avoidance Rule	All taxpayers, especially groups and HNW	Adverse
Kenya Revenue Authority (KRA) power to issue assessments from data	All taxpayers	Adverse
2× tax penalty for e-invoice / e-filing failures	All VAT-registered businesses, SMEs	Adverse
VASP information returns and KES 1m penalties	Virtual asset service providers	Adverse
VAT exemption on payment processing/gateway removed	Fintechs, PSPs, banks, e-commerce	Adverse
Excise on mobile phones shifted to activation (25%)	Phone importers, telcos, distributors	Adverse
EAC preferential excise exclusion removed for many goods	Manufacturers using EAC inputs	Adverse
IDF/RDL exemption for mobile phones removed	Phone importers	Adverse
Tax on non-resident ships due within 5 days of payment or the ship leaving the port of lading	Shipping lines, importers, freight forwarders	Adverse
Excise on coal, classic vehicles, fruit juices increased	Heavy industry, beverage manufacturers	Adverse
Worn clothing (mitumba) tax — 5% deemed profit on import	Mitumba importers and retailers	Adverse

B. Income tax provisions that increase business cost and risk

1. Corporate income tax return deadline cut from six months to four

The Bill proposes amendment of the Income Tax Act (ITA) to require self-assessment returns to be filed within 4 months following year-end (currently at 6 months). Nil returns must be filed within 1 month.

Affected businesses and sectors: Companies with significant operations.

Commercial takeaway: Businesses should prepare financial statements, audits and tax computations earlier than usual as the new timelines significantly shorten the period between year-end closing and tax filing. Companies should therefore engage their auditors and tax advisors early to align on revised reporting timelines.

2. Deemed dividend on undistributed profits

The Bill proposes amendment of the ITA to allow the Commissioner to treat at least 60% of a private company's after-tax profits as distributed where the company does not declare dividends within 12 months after year-end. Dividend WHT would then apply to the deemed distribution.

Affected businesses and sectors: Private companies.

Commercial takeaway: Private companies should review their dividend policy. Where profits are retained for legitimate business reasons such as debt servicing, working capital, or capital expenditure, companies should properly document the reasons at the time the decision is made.

3. Residential rental income WHT rate increased from 7.5% to 10%

The Bill proposes amendment of the ITA to raise the WHT rate on residential rental income from 7.5% to 10%.

Affected businesses and sectors: Residential landlords, property investors, property managers, estate agents and companies holding residential rental portfolios.

Commercial takeaway: Landlords and rental agents may consider reviewing lease arrangements and assess whether the additional WHT cost will need to be absorbed or passed on through rent adjustments.

4. WHT base widened: software, payment networks and digital platforms are now royalties

The Bill proposes redefining "royalty" under the ITA to include payments for the use or right to use software, including licence, development, training, maintenance, and support fees. The definition would

also cover payments for the use of proprietary digital platforms, payment networks, card schemes, and processing, switching, clearing, and settlement systems, regardless of how the consideration for such services is described.

Practically, fees that until now were treated as service fees and paid gross will be reclassified as royalties subject to WHT at 5% for residents and 20% for non-residents, subject to treaty relief.

Affected businesses and sectors: banks, payment service providers, card acquirers and issuers, fintechs, large merchants paying network or scheme fees, telcos, Business Process Outsourcing (BPO), digital platform and importers of enterprise software.

Commercial takeaway: Businesses making payments for software, digital platforms or payment processing services should review contracts and pricing structures to account for the additional WHT exposure, particularly where gross-up clauses apply.

5. EAC preferential dividend WHT rate of 5% abolished

The Bill proposes amendment of the ITA to remove the 5% preferential WHT rate on dividends previously available to EAC citizens. EAC investors will now pay the standard 15% non-resident rate.

Commercial takeaway: EAC-based investors should reassess their expected net after-tax returns and consider whether holding investments through a treaty jurisdiction such as Mauritius may offer a more tax-efficient structure. Investors should also review shareholders agreements to identify any tax gross-up provisions that may be triggered by the increased WHT exposure.

6. CGT on indirect transfers broadened

The Bill proposes amendment of the ITA to remove the 20% underlying ownership threshold for Capital Gains Tax (CGT) on indirect transfers of Kenyan property. Any non-resident disposal of shares in a foreign company that derives value from Kenya, or which results in a change of interest in Kenyan property, now triggers Kenyan CGT.

Affected businesses and sectors: Private Equity and Venture Capital funds with Kenyan portfolio companies, multinationals, holding structures, joint venture exits and M&As involving Kenyan property.

Commercial takeaway: Businesses should review group ownership structures to identify any indirect interests in Kenyan property as cross-border disposals trigger Kenyan Capital Gains Tax implications.

7. Interchange and merchant service fees reclassified as management/professional fees

The Bill proposes amendment of the definition of the "*management or professional fee*" to include interchange fees and merchant service fees arising from card transactions. Resident recipients will now face 5% WHT and non-resident recipients to face 20% WHT subject to any applicable treaty reliefs.

Affected businesses and sectors: Banks, card schemes, merchants who pay scheme/issuer fees and e-commerce platforms.

Commercial takeaway: Banks, merchants and payment service providers should undertake an end-to-end review of the card-payment value chain to identify the resident and non-resident counterparties involved and assess the additional WHT cost on interchange and merchant service fees.

8. New non-resident rental income tax (NRRIT) with monthly compliance

The Bill proposes introduction of a final tax on non-resident persons earning income from the use or occupation of property situated in Kenya under the ITA. The non-resident must register through a simplified framework and submit monthly returns and payments by the 20th of the following month. Where a resident person such as an estate agent collects rent on behalf of a non-resident, the resident will be a withholding agent.

Affected businesses and sectors: Foreign landlords and Kenyan property managers acting for non-residents.

Commercial takeaway: Property managers and agents acting for non-resident landlords should establish systems for monthly withholding, remittance and reporting obligations under the new tax regime.

9. New WHT on scrap metal (1.5%) and gambling winnings (20%)

The Bill proposes amendment of the ITA to introduce WHT at 1.5% of the gross amount on sale of scrap metal, and 20% on gambling winnings which is defined as the pay-out excluding the amount staked.

Affected businesses and sectors: Scrap metal dealers and betting operators.

Commercial takeaway: Scrap metal dealers and betting operators should update their procurement and payment systems to ensure WHT is deducted at source and remitted correctly.

10. Tax on importation of worn clothing (mitumba)

The Bill proposes introduction of a final tax on the importation of worn clothing, footwear and other worn articles. The taxable profit is deemed to be 5% of the customs value, with tax payable on

importation, prior to release of the goods. While resale in Kenya is VAT-exempt, the main impact of the change is to introduce an upfront income tax cost for the affected taxpayers.

Affected businesses and sectors: Mitumba importers, wholesalers and retailers.

Commercial takeaway: Importers should incorporate the additional tax into their landed cost and pricing models. Cash flow planning at the port will become critical as the tax must be paid before goods are released.

11. Investment deduction now claimed over 10 years in equal annual tranches

The Bill proposes amendment of the ITA to the effect that the 10% investment deduction is claimed per year, in equal instalments rather than upfront. This effectively spreads the capital allowance over 10 years.

Affected businesses and sectors: Businesses undertaking large capital investments such as manufacturers, BPO operators, energy projects and large infrastructure investors.

Commercial takeaway: Businesses undertaking capital-intensive projects should update their capital expenditure models as the change increases the upfront tax cost of investments. Where investment decisions are still pending, businesses should consider accelerating them where possible before the commencement date.

C. VAT, Excise and pricing considerations

1. VAT exemption removed on payment processing

The Bill proposes amendment of the VAT Act to exclude digital payment and processing services from the VAT exemption applicable to money transfer services. Payment processing, settlement, merchant acquiring, gateway, and aggregation services provided through software or platforms for a fee or commission will be subject to 16% VAT.

Affected businesses and sectors: Payment service providers, fintechs, e-commerce platforms, mobile money providers and merchants who consume these services.

Commercial takeaway: Businesses using payment processing and gateway services should expect VAT to apply on these services and review the impact on pricing and operating costs.

2. VAT exemptions added for inputs into pharma, animal feed, EVs, batteries, PPP infrastructure

The Bill proposes amendment of the VAT Act to introduce new VAT exemptions for inputs and raw materials used in the manufacture of animal feeds and pharmaceutical products (subject to Cabinet

Secretary recommendation), electric buses, motorcycles and bicycles, solar and lithium-ion batteries, bioethanol vapour stoves, telephones for cellular and wireless networks, and goods/services for the direct and exclusive use in PPP infrastructure projects.

Who benefits: Pharma and animal feed manufacturers, EV and renewable energy importers/distributors, PPP project sponsors and telecom retailers.

Commercial takeaway: Businesses should update procurement and pricing models for affected sectors. Where exemptions are available, these require recommendation or approval from the Cabinet Secretary. Businesses should engage the relevant ministries early and ensure that qualifying status is documented in project agreements.

3. VAT zero-rated supplies pared back

The Bill proposes amendment of the VAT Act, effectively moving a range of previously zero-rated supplies to either standard-rating (16%) or exempt. Suppliers of the affected goods/services should expect higher effective VAT cost and may lose the ability to claim input VAT refunds against zero-rated outputs.

Affected businesses and sectors: Mobile phones retailers, EV and renewable energy importers/distributors and EV vehicles importers/distributors.

Commercial takeaway: Businesses should identify any supplies currently zero-rated under the deleted paragraphs and assess whether they will now be standard-rated or exempt. Pricing models, VAT clauses in contracts, and VAT refund positions should be reviewed and updated accordingly.

4. Excise duty on mobile phones payable on activation

The Bill proposes amendment of the Excise Duty Act so that excise duty on mobile phones for cellular and wireless networks is charged at the point of activation rather than importation, at a rate of 25% of the excisable value. The Bill also removes the Import Declaration Fee and Railway Development Levy exemption for imported telephones.

Affected businesses and sectors: Phone importers, distributors, telcos managing SIM activations and retailers carrying stock at transition.

Commercial takeaway: Phone importers, distributors and telecom operators should review existing inventory, incoming stock and excise systems to align with the new activation-based excise duty framework.

5. EAC preferential excise exclusion removed for a wide range of imported goods

The Bill proposes amendment of the Excise Duty Act to delete the EAC-origin excise exclusion for a long list of imported goods including furniture, printed paper and paperboard, paper labels, printing ink, plates of plastic, self-adhesive plastic plates/sheets/film/foil, safety glass, multiple-walled insulating glass units, among others.

Commercial takeaway: Manufacturers and converters sourcing inputs from EAC countries must review rules-of-origin compliance and assess the impact of excise duty on landed costs.

6. New and increased excise duties on selected goods

The Bill proposes amendment of the Excise Duty Act to introduce new or revised excise duty rates selected goods such as plastic articles, coal, fruit juices, ceramic sanitary fixtures, tobacco products, spirits and sugar confectionery.

Commercial takeaway: Manufacturers and importers of these goods should review pricing models and review excise compliance systems.

7 VAT relief on bad debts timeline extended from 2 to 3 years

The Bill proposes amendment of the VAT Act to extend the minimum qualifying period for VAT relief on bad debts from 2 years to 3 years.

Commercial takeaway: Taxpayers with significant bad debts should reassess cash flow projections as VAT relief claims will now take longer to qualify.

D. Payroll and employer compliance issues

1. Gratuity contributions tax-exempt where structured properly

The Bill proposes to exempt qualifying employer contributions to gratuity arrangements (end-of-service benefit arrangements) from employment income tax. The exemption would apply only where three conditions are met: (i) The employee has a contract lasting at least 3 continuous years; (ii) total contributions do not exceed 31% of the employee's basic salary, and (iii) the employee is not already eligible for pension contribution deductions. The Bill also clarifies that if a gratuity is paid out because an employee passes away, that payout won't be taxed either.

Who benefits: employers with long-service workforces, and employers looking for alternatives to traditional pension schemes

Commercial takeaway: Employers using gratuity as a retention or end-of-contract benefit should review their employment contracts, payroll treatment and scheme rules to confirm that the arrangement satisfies the proposed conditions and confirm PAYE exposure.

2. 2× tax penalty for failure to use electronic tax systems

The Bill proposes to amend the Tax Procedures Act (TPA) by retaining the existing position that KRA may impose a penalty of up to twice the tax due. The key change introduced is the addition of a minimum penalty threshold of KES 100,000, and KES 10,000 for individuals, including for failures such as issuing an eTIMS invoice, filing electronically, or paying tax electronically. In determining whether a taxpayer is compliant, KRA will also consider relevant factors in assessing the circumstances of non-compliance before making a final determination.

Affected businesses and sectors: All VAT-registered businesses (eTIMS), SMEs.

Commercial takeaway: Businesses should ensure that eTIMS invoicing, electronic filing and electronic payment processes are properly embedded and documented.

E. Contracting, cash-flow and tax administration risks

1. New General Anti-Avoidance Rule (GAAR)

The Bill proposes to introduce a new General Anti-Avoidance Rule under the ITA. The proposed rule would allow KRA to disregard or recharacterize a transaction, arrangement or course of action where it results in a tax benefit and one of its main purposes is to obtain that benefit. KRA would also be permitted to issue reassessments up to 5 years from the end of the relevant tax period.

Affected businesses and sectors: All taxpayers but particularly groups with intra-group financing, IP licensing, management fee arrangements, transfer pricing structures, group reorganisations and holding-company structures

Commercial takeaway: Businesses should review tax planning structures and ensure transactions have sufficient commercial justification beyond tax benefit.

2. Pre-populated tax returns become the default

The Bill proposes amendment of the TPA to allow KRA to generate pre-populated tax returns based on information already available to it. Taxpayers may then rely on these returns when filing, subject to their obligation to review and confirm accuracy.

Commercial takeaway: Taxpayers remain liable for the accuracy of the return regardless of pre-population. Tax teams should treat the pre-populated draft as a starting reconciliation, not as a final filing.

3. Virtual asset service providers — mandatory information returns and heavy penalties

The Bill proposes amendment of the TPA to require every virtual asset service provider (VASP) to file annual information returns about virtual-asset users and enable Kenya to enter into international automatic exchange of information arrangements. The Bill also introduces penalties of KES 100,000 per false statement or imprisonment up to 3 years, KES 100,000 per omission, and KES 1,000,000 for failure to file or for nil filing where filing was required.

Affected businesses and sectors: Every VASP operating in or from Kenya.

Commercial takeaway: VASPs should implement systems for annual reporting, record keeping and compliance with Kenyan tax disclosure requirements.

4. Non-resident PIN exemption when opening an investment bank account

The Bill proposes amendment of the TPA to exempt non-residents from the PIN requirement when opening an account with an investment bank.

Commercial takeaway: This is a friction-reducing improvement for cross-border capital flows into Kenyan capital markets. Investment banks should update their account-opening checklists accordingly.

5. Tax amnesty extended

The Bill proposes amendment of the TPA to reinstate the tax amnesty program and extending the qualifying period for waiver of interest and penalties to 31 December 2025 (from 31 December 2023) and extending the payment deadline to 31 December 2026.

Commercial takeaway: This is a positive change for businesses with legacy tax exposure. They should identify all open principal-tax liabilities up to 31 December 2025, settle the principal by 31 December 2026 and the entire penalty and interest burden falls away.

6. REIT — CGT and stamp duty exemption on transfers in

The Bill introduces amendment of the ITA and the Stamp Duty Act to exempt CGT and stamp duty on transfers of property to a Real Estate Investment Trust (REIT) registered by KRA.

Commercial takeaway: Materially improves the economics of REIT formation. Real estate sponsors and asset managers should re-evaluate REIT structures as the proposed exemptions may reduce the tax cost of transferring property into a REIT.

7. Hire-purchase financial charges excluded from VAT taxable value

The Bill proposes amendment of the VAT Act to clarify that financial charges under a hire purchase agreement registered under the Hire Purchase Act are excluded from the taxable value of the supply.

Commercial takeaway: Businesses should confirm hire purchase agreements are registered under the Hire Purchase Act to benefit from the VAT exclusion on financial charges.

Conclusion

The Finance Bill, 2026 signals a significant shift in Kenya's tax and regulatory landscape with far-reaching implications across sectors including financial services, manufacturing, telecommunications, real estate, infrastructure, digital services and cross-border investment.

While the Bill introduces several favourable measures aimed at supporting investment and tax administration efficiency, it also reflects a clear policy direction toward expanded tax enforcement, broader withholding tax exposure, tighter compliance obligations and increased scrutiny of commercial arrangements.

Businesses should therefore begin assessing the implications of the proposed amendments ahead of the anticipated commencement dates. Early engagement with tax, legal, finance and operational teams will be critical in mitigating risk and identifying available opportunities under the proposed framework.

We will continue to keenly monitor the legislative process including stakeholder and public participation engagements, as well as any amendments to the draft proposals during the review process.

We shall provide further updates and a detailed analysis once the Finance Act, 2026 is enacted and the final provisions come into force.

ABOUT KN

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