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**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2020**

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**NAIROBI, 5th May, 2020**

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CONTENT

Bill for Introduction into the National Assembly —

PAGE

The Finance Bill, 2020 .....245

**THE FINANCE BILL, 2020****A Bill for**

**AN ACT of Parliament to amend the laws relating to various taxes and duties and for matters incidental thereto**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

**1.** This Act may be cited as the Finance Act, 2020 and shall come into operation as follows—

Short title and commencement.

- (a) sections 2, 3, 4, 5, 6, 7, 8, 9, 15 and 16, the 1st January, 2021; and
- (b) all other sections, on the date of assent.

**PART II—INCOME TAX ACT**

**2.** Section 6A of the Income Tax Act is amended in subsection (1) by deleting the word “ten” and substituting therefor the word “fifteen”.

Amendment of section 6A of Cap. 470.

**3.** Section 12 of the Income Tax Act is amended in subsection (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

Amendment of section 12 of Cap. 470.

- (a) if the minimum tax payable under section 12D is higher than the instalment tax under this section; and

**4.** The Income Tax Act is amended by inserting the following new sections immediately after section 12C—

Insertion of new sections 12D and 12E in Cap. 470.

Minimum tax.

**12D.** (1) Notwithstanding any other provision of this Act, a tax to be known as minimum tax shall be payable by a person if—

- (a) that person’s income is not exempt under this Act;
- (b) that person’s income is not chargeable to tax under sections 5, 6A, 12C, the Eighth or the Ninth Schedules; or
- (c) the instalment tax payable by that person under section 12 is higher than the minimum tax.

(2) The tax payable under this section shall be paid in instalments which shall be due on the twentieth day of each period ending on the fourth, sixth, ninth and twelfth month of the year of income.

Digital service tax.

**12E.** (1) Notwithstanding any other provision of this Act, a tax to be known as digital service tax shall be payable by a person whose income from the provision of services is derived from or accrues in Kenya through a digital market place:

Provided that a resident person or a non-resident person with a permanent establishment in Kenya shall offset the digital service tax paid against the tax payable for that year of income.

(2) The tax payable under subsection (1) shall be due at the time of the transfer of the payment for the service to the service provider.

**5.** Section 15 of the Income Tax Act is amended in subsection (2) by—

Amendment of section 15 of Cap. 470.

- (a) deleting paragraph (h);
- (b) deleting paragraph (s);
- (c) deleting paragraph (ss);
- (d) deleting paragraph (u);
- (e) deleting paragraph (v); and
- (f) deleting paragraph (x).

**6.** The Income Tax Act is amended by repealing section 22C.

Repeal of section 22C of Cap. 470.

**7.** Section 34 of the Income Tax Act is amended in subsection (1) by inserting the following new paragraphs immediately after paragraph (m)—

Amendment of section 34 of Cap. 470.

- (n) tax upon the gross turnover of a person whose income is chargeable to tax under section 12D shall be charged at the rate specified in the Third Schedule.

- (o) tax upon the gross transaction value of services chargeable to tax under section 12E shall be charged at the rate specified in the Third Schedule.

**8.** Part I of the First Schedule to the Income Tax Act is amended by—

Amendment of the First Schedule to Cap. 470.

- (a) deleting paragraph 44;
- (b) deleting paragraph 45;
- (c) deleting paragraph 53.

**9.** The Third Schedule to the Income Tax Act is amended in Head B by inserting the following new paragraphs immediately after paragraph 10—

Amendment of Third Schedule to Cap. 470.

- 11. The rate of tax in respect of minimum tax under section 12D shall be one per cent of the gross turnover.
- 12. The rate of tax in respect of digital service tax under section 12E shall be one point five per cent of the gross transaction value.

### **PART III—VALUE ADDED TAX ACT**

**10.** (1) Section 17 of the Value Added Tax Act, 2013, is amended by deleting subsection (2) and substituting therefor the following new subsection—

Amendment of section 17 of No. 35 of 2013.

(2) If, at the time when a deduction for input tax would otherwise be allowable under subsection (1)—

- (a) the person does not hold the documentation referred to in subsection (3), or
- (b) the registered supplier has not declared the sales invoice in a return,

the deduction for input tax shall not be allowed until the first tax period in which the person holds such documentation:

Provided that the input tax shall be allowable for a deduction within six months after the end of the tax period in which the supply or importation occurred.

**11.** The First Schedule to the Value Added Tax Act, 2013, is amended—

Amendment of First Schedule to No. 35 of 2013.

(a) in Section A of Part I by—

- (i) deleting tariff numbers 8802.11.00, 8802.12.00, 8802.20.00, 8803.30.00, 8805.10.00, 8805.21.00 and 8805.29.00 and their respective descriptions appearing immediately after paragraph 39;
- (ii) deleting paragraph 45;
- (iii) deleting paragraph 47;
- (iv) deleting paragraph 50;
- (v) deleting paragraph 65;
- (vi) deleting paragraph 67;
- (vii) deleting paragraph 104;
- (viii) deleting paragraph 107;

(b) in Section A of Part I, by inserting the following new paragraph immediately after paragraph 110—

111. Maize (corn) seeds of tariff no. 1005.10.00.

(c) in Part II, by inserting the word “ambulance” immediately after the word “dental” appearing in paragraph 4.

(d) in Part II, by inserting the words “excluding helicopters of tariff numbers 8802.11.00 and 8802.12.00” at the end of paragraph 18.

**12.** The Second Schedule to the Value Added Tax Act, 2013, is amended in Part A by—

Amendment of the Second Schedule to No. 35 of 2013.

- (a) deleting paragraph 13;
- (b) deleting paragraph 18.

#### **PART IV—EXCISE DUTY ACT**

**13.** Section 2 of the Excise Duty Act, 2015, is amended by deleting the definition of “licence” and substituting therefor the following new definition—

Amendment of section 2 of No. 23 of 2015.

“licence”—

- (a) in the case of excisable services, means the certificate of registration;