

SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2019

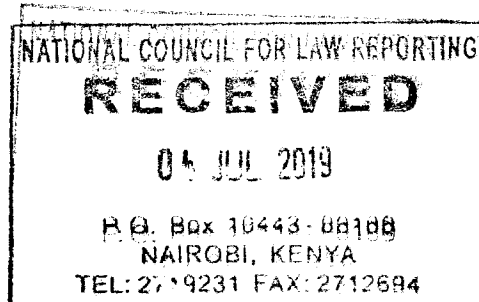
NAIROBI, 1st July, 2019

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THE FINANCE BILL, 2019**A Bill for****AN ACT of Parliament to amend the law 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, 2019, and shall come into operation, or be deemed to have come into operation, as follows—

Short title and commencement.

(a) sections 7, 12 and 46, on the 1st January, 2020; and

(b) all other sections, on the assent.

PART II—INCOME TAX

2. Section 2 of the Income Tax Act is amended —

Amendment of s. 2 of Cap. 470.

(a) by deleting the definition of “demurrage charges”.

(b) by inserting the following definition in proper alphabetical sequence—

“investee company” means an investee company within the meaning of the Capital Markets Act and the regulations made thereunder.

3. Section 3 of the Income Tax Act is amended —

Amendment of s. 3 of Cap. 470.

(a) in subsection (2) by inserting the following new paragraphs immediately after paragraph (c) —

(d) income chargeable to tax includes income accruing through a digital marketplace;

(b) in subsection (3) by inserting the following new paragraph immediately after paragraph(b)—

(ba) “digital marketplace” means a platform that enables the direct interaction between buyers and sellers of goods and services through electronic means;

4. Section 7A of the Income Tax Act is amended by deleting the proviso thereto and substituting therefor the following new proviso –

Amendment of s.
7A of Cap. 470.

Provided that this section shall not apply to income which is exempt under this Act.

5. Section 9 of the Income Tax Act is amended in subsection (1) by inserting the following proviso –

Amendment of s.
9 of Cap. 470.

Provided that all income of a non-resident shipping line including income from delay in taking delivery of goods or returning any of the equipment used for transportation of goods shall be deemed to be income derived from Kenya.

6. Section 10 of the Income Tax Act is amended in subsection (1) by—

Amendment of s.
10 of Cap. 470.

- (a) deleting paragraph (i);
- (b) inserting the words “or reinsurance” immediately after the word “insurance” appearing in paragraph (j);
- (c) adding the following new paragraph immediately after paragraph (j) –
 - (k) security services, cleaning and fumigation services, catering services offered outside hotel premises, transportation of goods (excluding air transport services), sales promotion, and marketing and advertising services.
- (d) inserting the words “except for deductions provided for by agreements under section 41” to paragraph (ii) of the proviso thereto;

7. The Income Tax Act is amended by repealing section 12C and replacing it with following new section –

Repeal and replacement of s. 12C of Cap. 470.

Turnover and presumptive tax.

12C (1) Notwithstanding any other provision of this Act, a tax to be known as turnover tax shall be payable by any resident person whose turnover from business does not exceed or is not expected to exceed five million shillings during any year of income.

(2) Despite subsection (1), a person who would otherwise be liable to pay turnover tax under this section may, by notice in writing addressed to the Commissioner, elect not to be subject to the provisions of this section, in which case the other provisions of this Act shall apply to such person.

(3) Notwithstanding subsection (1), turnover tax shall not apply to—

- (a) rental income;
- (b) management or professional or training fees;
- (c) the income of incorporated companies; or
- (d) any income which is subject to a final withholding tax under this Act.

(4) A person subject to turnover tax under this section shall submit a return and pay the tax due to the Commissioner on or before the twentieth day of the month following the end of the tax period.

(5) A person required to pay turnover tax under this section, shall be liable to pay presumptive tax equal to fifteen percent of the amount payable for a business permit or trading license issued by a county