

**SPECIAL ISSUE**

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**REPUBLIC OF KENYA**

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***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2018**

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**NAIROBI, 10th April, 2018**

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## THE TAX LAWS (AMENDMENT) BILL, 2018

### A Bill for

### AN ACT of Parliament to make amendments to tax-related laws

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Tax Laws (Amendment) Act, 2018. Short title.

2. The several laws specified in the first column of the Schedule are amended in the provisions specified in the second column thereof, in the manner respectively specified in the third column. Amendment of tax laws.

### SCHEDULE

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Income Tax Act, 1973 (Cap. 470)	s.2	Delete the proviso to the definition of the expression “winnings”.
	s.10	Insert the following new paragraph immediately after paragraph (f) — (g) winnings.
	s.22C(2)	Delete the — (a) expression “forty-eight” and substituting therefor the expression “ninety-six”; and (b) word “four” and substituting therefor the word “eight”.
	s.34(1)	Insert the following new paragraph immediately after paragraph (l) — (m) winnings.
	(2)	Insert the following new paragraph immediately after paragraph (h)— (i) winnings.
	s.35(1)	Insert the following new paragraph immediately after paragraph (h) —

(i) winnings.

(3) Insert the following new paragraph immediately after paragraph (g) –

(h) winnings.

First Schedule,  
Part I

Inserting the following new paragraphs immediately after paragraph 55-

“56. Capital gain accruing to Licensed Special Economic Zone developer or operator

57. Compensating tax under Section 7A accruing to a Licensed Special Economic Zone developer or operator.”

Third Schedule,  
Head B,  
Paragraph 3.

Insert the following new subparagraph immediately after subparagraph (h) –

(i) in respect of winnings, twenty percent.

Paragraph 5.

Insert the following new subparagraph immediately after subparagraph (h) –

(i) in respect of winnings, twenty percent

Provided that the tax paid under this subparagraph is final.

The Stamp Duty Act (Cap. 480) s.117(1)

Insert the following new paragraph immediately after paragraph (k) –

“(l) the purchase of a house by a first time home owner under affordable housing scheme.

The Value Added Tax Act, 2013, (No. 35 of 2013) First Schedule, Section A, Part I.

Insert the following new paragraphs immediately after paragraph 93 –

94. Taxable supplies, imported or purchased for direct and exclusive use in the construction of a minimum of five thousand housing units, by a licensed special economic zone operator, developer or enterprise upon recommendation by the Cabinet Secretary for the time being responsible for housing.

95. Taxable supplies, imported or purchased for direct and exclusive use in the

construction of a hotel and/or conference facility by a licensed special economic zone operator, developer or enterprise upon recommendation by the Cabinet Secretary for the time being responsible for tourism.

96. The transfer of a business as a going concern by a registered person to another registered person.

97. The supply of natural water, excluding bottled water, by a National Government, County Government, any political sub-division thereof or a person approved by the Cabinet Secretary for the time being responsible for water development, for domestic or for industrial use.

98. Articles of apparel, clothing accessories and equipment specially designed for safety or protective purposes for use in registered hospitals and clinics or by county government or local authorities in fire fighting.

99. Taxable goods supplied to marine fisheries and fish processors upon recommendation by the relevant state department.

100. Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for matters relating to health.

101. The supply of liquefied petroleum gas.

102. Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of tariff numbers —

(a) 0401.10.00 – of a fat content, by weight but not exceeding 1%;

- (b) 0401.20.00 – of a fat content, by weight, exceeding 1% but not exceeding 6%;
- (c) 0401.40.00 – of a fat content, by weight, exceeding 6% but not exceeding 10%; and
- (d) 0401.50.00 – of a fat content, by weight, exceeding 10%.

103. The supply of maize (corn) flour, ordinary bread and cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten per-cent in weight.

104. Agricultural pest control products.

105. Goods imported by passengers arriving from places outside Kenya, subject to the limitations and conditions specified as follows—

- (a) the goods shall be—
  - (i) the property of and accompanying the passenger, except as provided in paragraph (105);
  - (ii) for the personal or household use of the passenger in Kenya; and
  - (iii) of such kinds and in such quantities as the proper officer may allow;
- (b) notwithstanding subparagraph (c), the following goods shall not be exempt under this item —
  - (i) alcoholic beverages of all kinds, perfumed spirits and tobacco and manufactures thereof, except as provided in subparagraphs (f) and (g);
  - (ii) fabrics in the piece;

- (iii) motor vehicles except, as provided in subparagraphs (c) and (d); and
  - (iv) any trade goods, or goods for supply or disposal to other persons;
- (c) subject to subparagraphs (a) and (b), the following goods may be exempted under this item when imported as baggage by a person on first arrival or by a returning resident of Kenya whom the proper officer is satisfied is *bona fide* changing residence from a place outside Kenya to a place within Kenya —
- (i) wearing apparel;
  - (ii) personal and household effects of any kind which were in his personal or household use in his former place of residence; and
  - (iii) one motor vehicle, (excluding buses and minibuses of a seating capacity of more than 13 passengers and load-carrying vehicles of a load carrying capacity exceeding two tones) which the passenger has personally owned and used outside Kenya for at least twelve months (excluding the period of the voyage in the case of shipment):

Provided —

- (i) the person has attained the age of eighteen years; and
- (ii) where the person has previously been granted exemption under this

paragraph, any subsequent exemption shall not apply unless such person has used the motor vehicle so imported into Kenya for a period of not less than four years, and tax has been paid for the motor vehicle upon which exemption had previously been granted;

(iii) where the returning resident has owned and used a left-hand drive vehicle for at least twelve months the person may sell the vehicle and import a right hand drive vehicle of whose current retail selling price does not exceed that of the previously owned left-hand-drive vehicle, subject to the following conditions—

(A) the person shall provide proof of ownership and use of the previously owned left-hand-drive vehicle in the country of former residence for a period of at least one year prior to the return;

(B) the person shall provide proof of disposal of the previously owned left-hand-drive vehicle before changing residence; and

(iv) subparagraph (iii) shall only apply to residents returning from countries that operate Left Hand Drive motor vehicles;

(d) subject to subparagraphs (a) and (b) the following goods may be exempted under this item when imported as baggage by a person whom the proper office is satisfied is making a temporary visit not exceeding three months to Kenya—

(i) non-consumable goods imported for his personal use

during his visit which he intends to take out with him when he leaves at the end of his visit;

- (ii) consumable provisions and non-alcoholic beverages, in such quantities and of such kinds as are, in the opinion of the proper officer, consistent with his visit; and
  - (iii) goods imported by a returning resident, being an employee of an international organization the headquarters of which are in Kenya, and who has been recalled for consultations at the organization's headquarters;
- (e) subject to subparagraphs (a) and (b), the following goods may be exempted under this item imported as baggage by a person who the proper officer is satisfied is a resident of Kenya returning from a visit outside Kenya and who is not changing residence in accordance with subparagraphs (c) and (d)—
- (i) wearing apparel;
  - (ii) personal and household effects which have been in his personal or household use.
- (f) subject to subparagraph (a) and (b), tax shall not be levied on the following goods imported by, and in the possession of a passenger—
- (i) spirits (including liquors) or wine, not exceeding one litre or wine not exceeding two litres;
  - (ii) perfume and toilet water not exceeding in all one half litre,



of which not more than a quarter may be perfume; and

- (iii) cigarettes, cigars, cheroots, cigarillos, tobacco and snuff not exceeding in all 250 grams in weight:

Provided that the tax free allowance under this subparagraph shall be granted only to passengers who have attained the age of eighteen years;

- (g) subject to subparagraphs (a) and (b)—

- (i) the exemption granted in accordance with subparagraphs (c), (d) and (e) may be allowed in respect of baggage imported within ninety days of the date of arrival of the passenger or such further period, not exceeding three hundred and sixty days from such arrival, as the Commissioner may allow; and

- (ii) the tax free allowances granted in accordance with subparagraph (f) shall not be allowed in respect of goods specified in the paragraph imported in unaccompanied baggage;

- (h) where any person who has been granted exemption under subparagraphs (c) or (d) changes his residence to a place outside Kenya within ninety days from the date of his arrival, he shall export his personal or household effects within thirty days, or such further period, not exceeding sixty days from the date he changes such

residence to a place outside Kenya, as the Commissioner may allow, otherwise tax shall become due and payable from the date of importation; and

- (i) subject to paragraphs (1) and (2), goods up to the value of three hundred United States Dollars for each traveller in respect of goods, other than goods referred to in paragraph (9), shall be exempted when imported by the traveller in his or her accompanied baggage, or upon his or her person and declared by him or her to an officer, provided that the person has been outside Kenya for a period in excess of twenty-four hours.

106. Taxable goods for emergency relief purposes for use in specific areas and within a specified period, supplied to or imported by the Government or its approved agent, a non-governmental organization or a relief agency authorized by the Cabinet Secretary responsible for disaster management, where—

- (a) the goods are for use in areas where a natural disaster or calamity has occurred in Kenya; or
- (b) the goods are intended for use in officially recognized refugee camps in Kenya;
- (c) the goods are household utensils, food stuffs, materials for provision of shelter or equipment and materials for health, sanitary or educational purposes; and
- (d) the case of a natural disaster or calamity, the importation or purchase locally is made within six months or such further period, not

exceeding twelve months, as the Commissioner may permit in each case.

107. Medicaments of the following tariffs numbers—

- |            |  |
|------------|--|
| 3002.20.00 | Vaccines for human medicine.   |
| 3002.30.00 | Vaccines for veterinary medicine   |
| 3003.10.00 | Medicaments containing penicillin or derivatives thereof, with penicillanic acid structure, or streptomycin or their derivatives.  |
| 3003.20.00 | Medicaments containing other antibiotics.  |
| 3003.39.00 | Other medicaments, containing hormones or other products of heading No. 29.37 but not containing antibiotics, not put up in measured doses or in forms or packings for retail sale.                              |
| 3003.40.00 | Medicaments containing alkaloids or derivatives thereof but not containing hormones or other products of heading No. 29.37 or antibiotics, not put up in measured doses or in forms or packings for retail sale. |
| 3003.90.00 | Other.   |
| 3003.90.10 | Infusion solutions for ingestion other than by mouth not put up in measured doses or in  |

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- forms or packings for retail sale.
- 3003.90.90 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale.
- 3004.10.00 Medicaments containing penicillin or derivatives thereof, with a penicillanic acid structure, or streptomycin or their derivatives, put up in measured doses or in forms or packings for retail sale.
- 3004.20.00 Medicaments containing other antibiotics, put up in measured doses or in forms or packings for retail sale.
- 3004.32.00 Medicaments containing adrenal cortical hormones, put up in measured doses or in forms or packings for retail sale.
- 3004.39.00 Other medicaments containing hormones or other products of heading No. 29.37 but not containing antibiotics, put up in measured doses or in forms or packings for retail sale.

3004.40.00	Medicaments containing alkaloids or derivatives thereof but not containing hormones, or other products of heading No. 29.37 or antibiotics, put up in measured doses or in forms or packings for retail sale.
3004.50.00	Other medicaments containing vitamins or other products of heading No. 29.36 put up in measured doses or in forms or packings for retail sale.
3004.90.00	Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.
3004.90.90	Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.

Second Schedule, Part A, paragraph 7	Delete.
Paragraph 8.	Delete.
Paragraph 11.	Delete.
Paragraph 13.	Delete.

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Paragraph 14.	Delete.
Paragraph 15.	Delete.
Paragraph 16.	Delete.
Paragraph 17.	Delete.
Part B, paragraph 6.	Delete.
Paragraph 7.	Delete.
Part C.	Delete.

**MEMORANDUM OF OBJECTS AND REASONS**

The Tax Laws (Amendment) Bill, 2018 seeks to make several amendments to the following tax-related statutes—

**The Income Tax Act (Cap. 470)**

The Bill, seeks to amend the Income Tax Act to introduce a tax on winnings and to enhance the tax incentive on home ownership.

**The Stamp Duty Act (Cap. 480)**

The Bill seeks to amend the Stamp Duty Act to provide an incentive to first-time home owners.

**The Value Added Tax Act, 2013 (No. 35 of 2013)**

The Bill seeks to amend the Value Added Tax Act to move some items from zero rate to exempt in order to limit zero rating to exports.

The enactment of this Bill may not occasion additional expenditure of public funds.

This Bill is a Bill not concerning county governments within the meaning of Article 110 of the Constitution.

Dated the 29th March, 2018.

ADEN DUALE,  
*Leader of Majority Party.*

*The definition of “winnings” in section 2 of Cap. 470 which it is proposed to amend—*

“winnings” has the meaning assigned to it in the Betting, Lotteries and Gaming Act (Cap. 131);

Provided that this definition shall only apply in case of winnings payable to punters (players) bookmakers.

*Section 10 of Cap. 470 which it is proposed to amend—*

For the purposes of this Act, where a resident person or a person having a permanent establishment in Kenya makes a payment to any other person in respect of—

- (a) a management or professional fee or training fee;
- (b) a royalty or natural resource income;
- (c) interest and deemed interest;
- (d) the use of property;
- (e) an appearance at, or performance in, any place (whether public or private) for the purpose of entertaining, instructing, taking part in any sporting event or otherwise diverting an audience; or
- (f) an activity by way of supporting, assisting or arranging an appearance or performance referred to in paragraph (e) of this section;

*Section 22C of Cap. 470 which it is proposed to amend—*

(1) A depositor shall in any year of income commencing on or after 1st January, 1996 be eligible to deposit funds with a registered home ownership savings plan up to the amount deductible under subsection (2).

(2) Notwithstanding the provisions of section 16(2)(d), deduction shall be allowed in respect of the funds of a depositor under a registered home ownership savings plan in the qualifying year and the subsequent nine years of income, subject to a maximum of forty-eight thousand shillings per year of income or four thousand shillings in respect of each month:

Provided that for any year of income commencing on or before the 1st day of January, 2007, any interest income earned by a depositor on deposits of up to a maximum of three million shillings shall be exempt from tax.

(3) All deposits made under a registered home ownership savings plan shall be held in an account with an approved institution.



(4) Deposits in a registered home ownership savings plan shall be invested in accordance with the prudential guidelines issued by the Central Bank.

(5) A depositor may with the prior written approval of the Commissioner transfer his deposits from one approved institution to another which operates a registered home ownership savings plan.

(6) A transfer made under subsection (5) shall not be considered as a withdrawal under section 3(2)(c).

(7) A registered home ownership savings plan shall be operated in such manner as may be prescribed.

(8) For the purposes of this section and section 8—

**“approved institution”** means a bank or financial institution registered under the Banking Act (Cap. 488), an insurance company licensed under the Insurance Act (Cap. 487) or a building society registered under the Building Societies Act (Cap. 489);

**“depositor”** means an individual who has attained the age of eighteen years and does not directly or indirectly or through his spouse, child, corporation, registered business name, or any other way own an interest in a permanent house, and is not and has not previously been a depositor under a registered home ownership savings plan;

**“permanent house”** means a residential house that a financial institution would accept as collateral for a mortgage, and includes any part or portion of a building, used or constructed, adapted or designed to be used for human habitation as a separate tenancy for one family only, whether detached, semidetached or separated by party walls or floors from adjoining buildings or part or portion of such building, together with such outbuildings as are reasonably required to be used or enjoyed therewith;

**“qualifying year”** means the year in which the depositor first makes deposits under a registered home ownership savings plan.

*Section 34 of the Act which it is proposed to amend*

(1) Subject to this section—

- (a) tax upon the total income of an individual, other than that part of the total income comprising wife’s employment income fringe benefits and the qualifying interest, shall be charged for a year of income at the individual rates for that year of income;
- (b) tax upon that part of the total income which consists of wife’s employment income, wife’s professional income rate and wife’s self-employment income rate other than income arising from

fringe benefits shall be charged for a year of income at the wife's employment income rate, wife's professional income rate and wife's self-employment income rate, as the case may be, for that year of income;

- (c) tax upon that part of the total income of an individual that comprises the qualifying interest shall be charged for a year of income at the qualifying interest rate of tax for that year of income;
- (d) tax upon that part of the total income of a person that comprises the qualifying dividends shall be charged for a year of income at the qualifying dividend rate of tax for that year of income;
- (e) tax upon the total income of a person other than an individual shall be charged at the corporation rate for that year of income;
- (f) tax upon that part of total income that comprises dividends other than qualifying dividends shall be charged in a year of income at the resident withholding rate in respect of a dividend specified in the Third Schedule;
- (g) tax upon the total fringe benefits provided by an employer shall be charged at the resident corporation rate for that year of income;
- (h) tax upon gross receipts of a person chargeable to tax under section 12C shall be charged at the resident rate for that year of income;
- (i) deleted by Act No. 14 of 2015, s. 11;
- (j) tax upon the capital gains of a person charged under section 3(2)(f) shall be charged at the rate of five percent and shall not be subject to further taxation;
- (k) tax upon gross rental receipts of a person chargeable to tax under section 6A shall be charged at the resident rate specified under the Third Schedule for that year of income;
- (l) the transfer of interest in a person shall be charged as per provisions of the Ninth Schedule;
- (m) deleted by Act No. 38 of 2016, s. 8(a);
- (2) Tax upon the income of a non-resident person not having permanent establishment in Kenya which consists of—
  - (a) a management or professional fee;
  - (b) a royalty or natural resource income;

- (c) a rent, premium or similar consideration for the use or occupation of property;
  - (d) a dividend;
  - (e) interest;
  - (f) a pension or retirement annuity;
  - (g) any payment in respect of any appearance at, or performance in, any place (whether public or private) for the purpose of entertaining, instructing, taking part in any sporting event or otherwise diverting an audience; or
  - (h) any payment in respect of an activity by way of supporting, assisting or arranging an appearance or performance referred to in paragraph (g) of this subsection;
  - (i) deleted by Act No. 38 of 2016, s. 8(b);
  - (j) a payment in respect of gains or profits from the business of transmitting messages which is chargeable to tax under section 9(2);
  - (k) deleted by Act No. 14 of 2015, s. 11;
- shall be charged at the appropriate non-resident rate in force at the date of payment of such income and shall not be charged to tax under subsection (1).

(3) Repealed by Act No. 8 of 1978, s. 9.

(4) In this section "person" does not include a partnership

*Section 35 of Cap. 470 which it is proposed to amend—*

(1) Every person shall, upon payment of any amount to any non-resident person not having a permanent establishment in Kenya in respect of—

- (a) a management or professional fee or training fee except—
  - (i) a commission paid to a non-resident agent in respect of flowers, fruits or vegetables exported from Kenya and auctioned in any market outside Kenya and audit fees for analysis of maximum residue limits paid to a non-resident laboratory or auditor; or
  - (ii) a commission paid by a resident air transport operator to a nonresident agent in order to secure tickets for international travel;
- (b) a royalty or natural resource income;

- (c) a rent, premium or similar consideration for the use or occupation of property, except aircraft or aircraft engines, locomotives or rolling stock:

Provided that—

- (i) where the bond, loan, claim, obligation or other evidence of indebtedness is acquired by a person exempt under the First Schedule or a financial institution specified in the Fourth Schedule from a non-resident person, such an exempt person or financial institution shall deduct tax from the difference between the acquisition price and the original issue price; and
- (ii) where a non-resident person disposes of a bond, loan, claim, obligation or other evidence of indebtedness acquired from a person exempt under the First Schedule or a financial institution specified in the Fourth Schedule, tax shall be deducted upon final redemption from the difference between the final redemption price and the acquisition price, if the exempt person or financial institution certifies the acquisition price to the satisfaction of the Commissioner;
- (d) a dividend;
- (e) interest and deemed interest;
- (f) a pension or retirement annuity:

Provided that for the purposes of this paragraph, contractual fee within the meaning of “management or professional fee” shall mean payment for work done in respect of building, civil or engineering works;

- (g) any appearance at, or performance in, a place (whether public or private) for the purpose of entertaining, instructing, taking part in any sporting event or otherwise diverting an audience; or
- (h) any activity by way of supporting, assisting or arranging any appearance or performance referred to in paragraph (g) of this subsection, which is chargeable to tax, deduct therefrom tax at the appropriate non-resident rate;
- (i) deleted by Act No. 7 of 2002, s. 43;
- (j) deleted by Act No. 38 of 2016, s. 9(a);
- (k) deleted by Act No. 16 of 2014, s. 11;
- (l) gains or profits from the business of transmitting messages which is chargeable to tax under section 9(2).

(1A) Subsection (l) shall not apply to payments made by filming agents and filming producers approved by the Kenya Film Commission to actors and crew members approved for purposes of paragraphs (g) and (h).

(2) Deleted by Act No. 8 of 1978, s. 9.

(3) Subject to subsection (3A), a person shall, upon payment of an amount to a person resident or having a permanent establishment in Kenya in respect of—

- (a) a dividend; or
- (b) interest, other than interest paid to a financial institution specified in the Fourth Schedule which is resident or which has a permanent establishment in Kenya, including interest arising from a discount upon final satisfaction or redemption of a debt, bond, loan, claim, obligation or other evidence of indebtedness measured as the original issue discount, other than interest or discounts paid to a person exempt under the First Schedule or a financial institution specified in the Fourth Schedule:

Provided that—

- (i) where the bond, loan, claim, obligation or other evidence of indebtedness is acquired by a person exempt under the First Schedule or a financial institution specified in the Fourth Schedule from the resident person, such an exempt person or financial institution shall deduct tax from the difference between the acquisition price and the original issue price; and
  - (ii) where the resident person disposes of a bond, loan, claim, obligation or other evidence of indebtedness acquired from a person exempt under the First Schedule or a financial institution specified in the Fourth Schedule, tax shall be deducted upon final redemption from the difference between the final redemption price and the acquisition price, if the exempt person or financial institution certifies the acquisition price to the satisfaction of the Commissioner;
- (c) an annuity payment excluding that portion of the payment which represents the capital element; or
  - (d) a commission or fee paid or credited by an insurance company to any person for the provision, whether directly or indirectly, of an insurance cover to any person or group of persons (except a commission or fee paid or credited to another insurance company);

- (e) a pension or a lump sum commuted or withdrawn from a registered pension fund or a lump sum out of a registered provident fund in excess of the tax exempt amounts specified in section 8(4) and (5), or any amount paid out of a registered individual retirement fund, or a benefit paid out of the National Social Security Fund in excess of the tax exempt amount specified in section 8(5); or
  - (ee) surplus funds withdrawn from or paid out of registered pension or provident funds;
- (f) management or professional fee or training fee, the aggregate value of which is twenty-four thousand shillings or more in a month:

Provided that for the purposes of this paragraph, contractual fee within the meaning of “management or Professional fee” shall mean payment for work done in respect of building, civil or engineering works;

- (g) a royalty or natural resource income;
- (h) deleted by Act No. 10 of 2010, s. 25;
- (i) deleted by Act No. 38 of 2016, s. 9 (b)(ii);
- (j) rent, premium or similar consideration for the use or occupation of immovable property.

(3A) Notwithstanding the provisions of subsection (3), only a person appointed for that purpose by the Commissioner, in writing, shall deduct tax under paragraph (j) of that subsection.

(4) No deduction shall be made under subsection (1) or (3) from a payment which is income exempt from tax under this Act, or to which an order made under this Act, or to which an order made under subsection (7) or (8) applies.

(5) Where a person deducts tax under this section he shall, on or before the twentieth day of the month following the month in which the deduction was made—

- (a) remit the amount so deducted to the Commissioner together with a return in writing of the amount of the payment the amount of tax deducted, and such other information as the Commissioner may specify; and
- (b) furnish the person to whom the payment is made with a certificate stating the amount of the payment and the amount of the tax deducted.

(6) Deleted by Act No. 38 of 2016, s. 9(d).

(6A) Where any person who is required under subsection (3A) to deduct tax—

- (a) fails to make the deduction or fails to deduct the whole amount of the tax which he should have deducted; or
- (b) fails to remit the amount of any deduction to the Commissioner on or before the twentieth day of the month following the month in which such deduction was made or ought to have been made,

any Collector of Stamp Duties appointed under section 4 of the Stamp Duty Act (Cap. 480), shall stamp the instrument of which the property is the subject matter under the Stamp Duty Act, and Registrars of Title or Land Registrars appointed under any written law shall not register the property under any written law, until such tax has been duly accounted for:

Provided that the transferee of chargeable property may pay such tax and be entitled to recover the amount of the tax from any consideration for the transfer in his possession, by action in a court or by any other lawful means at his disposal.

(6B) A person aggrieved by the imposition by the Commissioner of a penalty under this section may appeal against such imposition to the local committee within thirty days after the date of service of the notice of imposition:

Provided that—

- (i) the person shall, prior to making the appeal, pay all the tax due and the penalty imposed under this section; and
- (ii) the appeal shall be limited to the determination of the question as to whether the person has complied with the provisions of this Act and any regulations made thereunder relating to the deduction or remitting of tax under this section.

(6C) Subject to subsection (6B), the provisions of this Act relating to appeals to local committees against assessment shall apply *mutatis mutandis* to appeals under this section.

(6D) A person aggrieved by the imposition, by the Commissioner, of a penalty under this section may, by notice in writing to the Commissioner, object to the imposition within thirty days of the date of service of the notice of the imposition.

(6E) The provisions of this Act in respect of objections shall, *mutatis mutandis*, apply to objections under this section.

(7) The Minister may, by notice in the Gazette, exempt from the provisions of subsection (3) of this section any payment or class of payments made by any person or class of persons resident or having a permanent establishment in Kenya.

(8) The Minister may, by notice in the Gazette, amend or add to the Fourth Schedule in respect of financial institutions resident or having a permanent establishment in Kenya.

*Part I of the First Schedule of Cap. 470 which it is proposed to amend—*

### EXEMPTIONS

#### PART I – INCOME ACCRUED IN, DERIVED FROM OR RECEIVED IN KENYA WHICH IS EXEMPT FROM TAX

1. So much of the income of a person as is expressly exempted from income tax by or under the provisions of any Act of Parliament for the time being in force, to the extent provided by such Act.

2. The income of any person who, or organization which, is exempt from income tax by or under any Act of Parliament for the time being in force, to the extent provided by such Act.

3. Deleted by Act No. 57 of 2012, s. 23.

4. The income of—

The Tea Board of Kenya,

The Pyrethrum Board of Kenya,

The Sisal Board of Kenya,

The Kenya Dairy Board,

The Canning Crops Board,

The Central Agricultural Board,

The Pig Industry Board,

The Pineapple Development Authority,

The Horticultural Crops Development Authority,

The Kenya Tea Development Authority,

The National Irrigation Board,

The Mombasa Pipeline Board,



The Settlement Fund Trustees,  
 The Kenya Post Office Savings Bank,  
 The Cotton Board of Kenya.

5. Deleted by Act No. 13 of 1984, s. 21.

6. The income, other than income from investments, of an amateur sporting association, that is to say, an association—

- (a) whose sole or main object is to foster and control any outdoor sport; and
- (b) whose members consist only of amateurs or affiliated associations the members of which consist only of amateurs; and
- (c) whose memorandum of association or by-laws have provisions defining an amateur or a professional and providing that no person may be or continue to be a member of such association if such person is not an amateur.

7. Profits or gains of an agricultural society accrued in or derived from Kenya from any exhibition or show held for the purposes of the society which are applied solely to such purposes, and the interest on investments of such society.

8. The income of any county government.

9. Interest on any tax reserve certificates which may be issued by authority of the Government. 10. Subject to section 26, the income of an institution, body of persons or irrevocable trust, of a public character established solely for the purposes of the relief of the poverty or distress of the public, or for the advancement of religion or education—

- (a) established in Kenya; or
- (b) whose regional headquarters is situated in Kenya,  
 in so far as the Commissioner is satisfied that the income is to be expended either in Kenya or in circumstances in which the expenditure of that income is for the purposes which result in the benefit of the residents of Kenya:

Provided that any such income which consists of gains or profits from a business shall not be exempt from tax unless such gains or profits are applied solely to such purposes and either—

- (i) such business is carried on in the course of the actual execution of such purposes;
- (ii) the work in connexion with such business is mainly carried on by beneficiaries under such purposes; or

(iii) such gains or profits consist of rents (including premiums or any similar consideration in the nature of rent) received from the leasing or letting of land and any chattels leased or let therewith;

and provided further that an exemption under this paragraph—

(A) shall be valid for a period of five years but may be revoked by the Commissioner for any just cause; and

(B) shall, where an applicant has complied with all the requirements of this paragraph, be issued within sixty days of the lodging of the application

11. The income of any person from any management or professional fee, royalty or interest when the Minister certifies that it is required to be paid free of tax by the terms of an agreement to which the Government is a party either as principal or guarantor and that it is in the public interest that such income shall be exempt from tax.

12. The income of any registered pension scheme.

13. The income of any registered trust scheme.

14. The income of any registered pension fund.

15. The income of a registered provident fund.

16. The income from the investment of an annuity fund, as defined in section 19 of this Act, of an insurance company.

17. Pensions or gratuities granted in respect of wounds or disabilities caused in war and suffered by the recipients of such pensions or gratuities.

18. Any payment in respect of disturbance, not exceeding three months' salary, made in connexion with a change in the constitution of the Government of a Partner State or the Community to any person who, before such change, was employed in the public service of any of those Governments or of the Community.

19. Deleted by Act No. 8 of 1978, s. 9.

20. Deleted by Act No. 8 of 1978, s. 9.

21. Deleted by Act No. 8 of 1978, s. 9.

22. That part of the income of any officer of the Government or of the Community accrued in or derived from Kenya which consists of foreign allowances paid to such officer from public funds in respect of his office:

Provided that, where any person to whom such an allowance is paid is granted a deduction under section 15 of this Act in respect of any expenditure incurred in relation to an activity for which the allowance is

paid, then the exemption conferred by this paragraph shall not apply to so much of such allowance as is equal to the amount of such deduction.

23. The income of the East African Development Bank and of Corporations established under Article 71 of the Treaty for East African Co-operation together with the income of subsidiary companies wholly owned by that Bank or by any of the said Corporations.

24. Deleted by Act No. 8 of 1978, s. 9.

25. The emoluments of any officer of the Desert Locust Survey who is not resident in Kenya. 26. The emoluments—

(a) deleted by Act No. 38 of 2013, s. 22;

(b) of any person in the public service of the Government of that country in respect of his office under that Government where such person is resident in Kenya solely for the purpose of performing the duties of his office,

where such emoluments are payable from the public funds of such country and are subject to income tax in such country.

27. The emoluments payable out of foreign sources in respect of duties performed in Kenya in connexion with a technical assistance or other agreement for developmental services or purpose to which the Government or the community is a party to any non-resident person or to a person who is resident solely for the purposes of performing those duties, in any case where the agreement provides for the exemption of such emoluments.

28. Any education grant paid by the Government of the United Kingdom under any agreement between that Government and the Government of Kenya and received by any person who is employed in the public service of Kenya or by the Community.

29. The income received by way of remuneration under any contract which was entered into consequent upon financial assistance being received from the International Co-operation Administration for the enterprise in respect of which the contract was so entered into and which provides that the income shall be exempt from tax.

30. The income received by virtue of their employment by citizens of the United States of America who are employed by the Department of Agriculture of the United States of America on research work in co-operation with Government.

31. Gains or profits resultant from any reward paid by the United Kingdom Atomic Energy Authority for the discovery of uranium ore in Kenya, except to the extent that such reward is liable to income tax in a

country outside Kenya and there is, between that country and Kenya, provision for any form of double taxation relief.

32. All income of any non-resident person not having a permanent establishment in Kenya accrued in or derived from Kenya after 17th June, 1971, and which consists of interest or management and professional fees paid by the Tana River Development Company Limited or its successors in title.

33. Such part of the income of the East African Power and Lighting Company accrued in or derived from Kenya as is certified from time to time by the Minister to have been expended (whether before or after the date of commencement of this Act) at the request of the Government either—

- (a) in searching for a natural source in Kenya of geothermal energy; or
- (b) on investigations concerning the development in Kenya of electric power generation or supply,

such exemption to take effect in the year in which the expenditure is incurred.

34. The income of the General Superintendence Company Limited, a company incorporated in Switzerland, accrued in or derived from Kenya under an agreement dated 18th October, 1972, between the said company and the Central Bank of Kenya.

35. Interest on a savings account held with the Kenya Post Office Savings Bank.

36. Such part of the income of an individual, chargeable to tax under section 3(2) (f) as consists of a gain derived from the transfer of—

- (a) shares in the stock or funds of the Government, the High Commission or the Authority established under the Organization or the Community;
- (b) shares of a local authority;
- (c) a private residence if the individual owner has occupied the residence continuously for the three-year period immediately prior to the transfer concerned.

Provided that—

- (i) in determining whether or not a person has occupied a residence continuously for three years, any period during which he was temporarily absent from the residence shall be ignored;

- (ii) references to a private residence include the immediately surrounding land utilized exclusively for personal purposes as an adjunct to the residence and not for the production of income, but does not include any part of the residence and land utilized for business purposes;
  - (iii) no individual may claim or be taken to have used more than one residence as his residence at the same time for the purposes of this Act;
  - (iv) no individuals may claim or be taken to have used more than one residence as their residence for the purposes of this Act at any time when they were husband and wife living together;
  - (v) no individual shall claim or be taken to have used a residence as a residence at any time when he was a dependant of either or both of his parents;
  - (vi) where a residence is used in part for business purposes, or is transferred in a single transaction together with land and other property used for the production of income, the taxable value of such property used for residential purposes shall be separately determined from that used for business purposes or for the production of income;
- (d) property (being land) transferred by an individual where—
- (i) the transfer value is not more than three million shillings; or
  - (ii) agricultural property having an area of less than fifty acres where such property is situated outside a municipality, gazetted township or an area that is declared by the Minister, by notice in the Gazette, to be an urban area for the purposes of this Act;
- (e) land which has been adjudicated under the Land Consolidation Act (Cap. 283) or the Land Adjudication Act (Cap. 284) when the title to such land has been registered under the Registered Land Act (Cap. 300) and transferred for the first time;
- (f) property (including investment shares) which is transferred or sold for the purpose of administering the estate of a deceased person where the transfer or sale is completed within two years of the death of the deceased or within such extended time as the Commissioner may allow in writing.

Provided that where there is a court case regarding such estate the period of transfer or sale under this paragraph shall be two years from the date of the finalization of such court case.

37. Deleted by Act No. 57 of 2012, s. 23.

38. Deleted by Act No. 10 of 1987, s. 36.

39. Deleted by Act No. 10 of 1987, s. 36.

40. Interest earned on contributions paid into the Deposit Protection Fund established under the Banking Act (Cap. 488).

41. Interest paid on loans granted by the Local Government Loans Authority established by section 3 of the Local Government Loans Act (Cap. 270).

42. The income of a non-resident person who carries on the business of aircraft owner, charterer or air transport operator, from such business where the country in which such non-resident person is resident extends a similar exemption to aircraft owners, charterers or air transport operators who are not resident in such country but who are resident in Kenya.

43. The income of a registered individual retirement fund.

44. The income of a registered home ownership savings plan.

45. Income of the National Social Security Fund provided that the Fund complies with such conditions as may be prescribed.

46. Dividends received by a registered venture capital company special economic zone enterprises, developers and operators licensed under the Special Economic zones Act.

47. Gains arising from trade in shares of a venture company earned by a registered venture capital company within the first ten years from the date of first investment in that venture company by the venture capital company:

Provided that the venture company has not been listed in any securities exchange operating in Kenya for a period of more than two years.

48. Gains arising from trade in securities listed on any securities exchange operating in Kenya by any dealer licensed under the Capital Markets Authority Act (Cap. 485A):

Provided that such securities have been held for a period not exceeding twentyfour months from the date of acquisition.

49. Interest income accrued in or derived from Kenya under financial arrangements made or guaranteed by the Export-Import Bank of the United States, an agency of the United States of America.

(1) Investment income of a pooled fund or other kind of investment consisting of retirement schemes, provided that all the constituent schemes of the pooled fund are registered by the Commissioner.

(2) For the purposes of this paragraph, “pooled fund” has the meaning assigned to it under the Retirement Benefit Act, 1997 (No. 3 of 1997).

51. Interest income accruing from all listed bonds, notes or other similar securities used to raise funds for infrastructure and other social services, provided that such bonds, notes or securities shall have a maturity of at least three years.

52. Interest income generated from cash flows passed to the investor in the form of asset-backed securities.

53. Monthly or lump sum pension granted to a person who is sixty five years of age or more.

53A. 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.

54. Interest income on bonds issued by the East African Development Bank.

55. Dividends paid by Special Economic Zone Enterprise, developers or operators to any non-resident person.

*Paragraph 3 of the Third Schedule Head B of Cap. 470 which it is proposed to amend—*

The non-resident tax rates shall be—

- (a) in respect of management or professional fees or training fees, consultancy, agency or contractual fee, twenty per cent of the gross sum payable:

Provided that—

- (a) the rate applicable to any payments made by Special Economic Zone Enterprise, Developer or Operator to a non-resident persons shall be 5% of the gross amount payable.

- (b) Provided that the rate applicable to citizens of the East African Community partner States in respect of consultancy fees shall be fifteen per cent of the gross sum payable;
- (b) in respect of a royalty or natural resource income, twenty per cent of the gross amount payable;

Provided that the rate applicable to any royalty paid by any Special Economic Zone Enterprise, Developer or Operator to a non-resident person shall be 5% of the gross amount payable.

- (c) (i) in respect of a rent premium or similar consideration for the use or occupation of immovable property, thirty per cent of the gross amount payable.
- (ii) in respect of a rent, premium or similar consideration for the use of property other than immovable property, fifteen per cent of the gross amount payable;
- (d) in respect of a dividend, ten per cent of the amount payable:

Provided that the rate applicable to citizens of the East African Community Partner States in respect of dividend shall be five per cent of the gross sum payable;

- (e) (i) in respect of interest and deemed interest arising from a Government bearer bond of at least two years duration and interest, discount or original issue discount, fifteen per cent of the gross sum payable;
- (ii) in respect of interest, arising from bearer instrument other than a Government bearer bond of at least two years duration, twenty-five per cent of the gross amount payable;
- (iii) in respect of interest paid by any Special Economic Zone Enterprise, Developer or Operator to a nonresident persons, 5% of the gross amount payable.
- (f) in respect of a pension or retirement annuity, five per cent of the gross amount payable;
- (g) in respect of an appearance at, or performance in, any place (whether public or private) for the purpose of entertaining, instructing, taking part in any sporting event or otherwise diverting an audience, twenty per cent of the gross amount payable;
- (h) in respect of an activity by way of supporting, assisting or arranging any appearance or performance mentioned in



subparagraph (g) of this paragraph, twenty per cent of the gross amount payable;

- (i) deleted by Act No. 16 of 2014, s. 22;
- (j) deleted by Act No. 16 of 2014, s. 22;
- (k) in respect of gains or profits from the business of a ship-owner which is chargeable to tax under section 9(1) of the Act, two and a half per cent of the gross amount received;
- (l) in respect of gains and profits from the business of transmitting messages by cable or radio communication, optical fibre, television broadcasting, Very Small Aperture Terminal (VSAT), internet and satellite or any other similar method of communication which is chargeable to tax under section 9(2), five per cent of the gross amount received;
- (m) deleted by Act No. 38 of 2016, s. 17 (e)(i);
- (n) in the case of a special economic zones enterprise, developer and operator in respect of payments other than dividends made to nonresidents at the rate of ten percent.

*Paragraph 5 of the Third Schedule Head B of Cap. 470 which it is proposed to amend*

The resident withholding tax rates shall be—

- (a) in respect of a dividend, fifteen per cent of the amount payable;
- (b) in respect of interest, discount or original issue discount arising from—
  - (i) bearer instrument other than a Government bearer bond of at least two years duration, twenty-five per cent;
  - (ii) Government Bearer Bond of at least two years duration and other sources, fifteen per cent;
  - (iii) bearer bonds with a maturity of ten years and above, ten per cent of the gross amount payable
- (c) in respect of a commission or fee, paid or credited by an insurance company to any person for the provision, whether directly or indirectly, of an insurance cover to any person or group of persons, five per cent of the gross amount payable to all others;
- (d) (i) in respect of a payment of a pension or any withdrawal made after the expiry of fifteen years from the date of joining the fund, or on the attainment of the age of fifty

years, or upon earlier retirement on the grounds of ill-health or infirmity of body and mind, from a registered pension fund, registered provident fund, the National Social Security Fund or a registered individual retirement fund, in excess of the tax free amounts specified under section 8(4) and 8(5) in any one year and, provided that tax has not been deducted under section 37—

10% on the first Shs. 400,000

15% on the next Shs. 400,000

20% on the next Shs. 400,000

25% on the next Shs. 400,000

30% on any amount over Shs. 1,600,000 of the amount in excess of the tax free amount: Provided that the tax so deducted shall be final;

- (ii) in respect of a withdrawal before the expiry of fifteen years from a registered pension fund, registered provident fund, the National Social Security Fund or a registered individual retirement fund in excess of the tax free amounts specified under section 8(4) and 8(5) in any one year—

On the first Shs.147,580            10%

On the next Shs.139,043        15%

On the next Shs. 139,043       20%

On the next Shs. 139,043       25%

On all income over Sh. 564,709 30%

- (iii) in respect of surplus funds withdrawn by or refunded to an employer in respect of registered pension or registered provident funds, thirty per cent of the gross sum payable;
- (e) in respect of a qualifying dividend, five per cent of the amount payable;
- (f) (i) in respect of management or professional fee or training fee, other than contractual fee, the aggregate value of which is twenty-four thousand shillings in a month or more, five per cent of the gross amount payable;
- (ii) in respect of contractual fee the aggregate value of which is twenty-four thousand shillings in a month or more, three per cent of the gross amount payable;

- (g) in respect of a royalty or natural resource income, five per cent of the gross amount payable;
- (h) in respect of qualifying interest—
  - (i) ten per cent of the gross amount payable in the case of housing bonds; and
  - (ii) twenty per cent of the gross amount payable in the case of bearer instrument; and
  - (iii) fifteen per cent of the gross amount payable in any other case;
- (i) deleted by Act No. 10 of 2010, s. 34;
- (j) deleted by Act No. 38 of 2016, s. 17 (e)(ii);
- (ja) in respect of a rent, premium or similar consideration for the use or occupation of immovable property, ten percent of the gross amount payable.

*First Schedule, Section A, Part I of Act No. 35 of 2013 which it is proposed to amend—*

## PART I – GOODS EXEMPT SUPPLIES

### SECTION A

**The supply or importation of the following goods shall be exempt supplies**

1. Bovine semen of tariff No. 0511.10.00.
2. Fish eggs and roes of tariff No. 0511.91.10.
3. Animal semen other than bovine of tariff No. 0511.99.10.
5. Groundnuts, not roasted or otherwise cooked, in shell of tariff No.1202.41.00.
6. Groundnuts, not roasted or otherwise cooked, shelled, whether or not broken of tariff No. 1202.42.00.
7. Copra of tariff No. 1203.00.00.
8. Linseed, whether or not broken of tariff No. 1204.00.00
9. Low erucic acid rape or colza seeds of tariff No. 1205.10.00.
10. Other rape or colza seeds of tariff No. 1205.90.00.
11. Sunflower seeds, whether or not broken of tariff No. 1206.00.00.
12. Cotton seeds, whether or not broken of tariff Nos. 1207.21.00 and 1207.29.00.

13. Sesamum seeds, whether or not broken of tariff No. 1207.40.00.
14. Mustard seeds, whether or not broken of tariff No. 1207.50.00.
15. Safflower seeds, whether or not broken of tariff No. 1207.60.00.
16. Other oil seeds and oleaginous fruits, whether or not broken of tariff No. 1207.99.00.
17. Pyrethrum flower of tariff No. 1211.90.20.
- 17A. Sugarcane of tariff No. 1212.93.00.
- 17B. Unprocessed produce of plant species *camellia sinensis*.
18. Live Animals of Chapter 1.
19. Meat and edible meat offals of chapter 2 excluding those of tariff heading 0209 and 0210.
20. Fish and crustaceans, molluscs and other aquatic invertebrates of Chapter 3 excluding those of tariff heading 0305, 0306 and 0307.
21. Unprocessed milk.
22. Fresh birds eggs in shell.
23. Edible Vegetables and certain roots and tubers of Chapter 7, excluding those of tariff heading 0711.
24. Edible fruits and nuts, peel of citrus fruits or melon of Chapter 8 excluding, those of tariff heading 0811, 0812, 0813 and 0814.
25. Cereals of Chapter 10, excluding seeds of tariff heading 1001, 1002 and 1003.
26. Fertilisers of Chapter 31.
27. Plants and machinery of Chapter 84 and 85.
28. Maize (corn) seed of tariff no. 1005.10.00.
29. Taxable supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in the construction of a power generating plant, by a company, to supply electricity to the national grid approved by Cabinet Secretary for National Treasury upon recommendation by the Cabinet Secretary responsible for energy.
30. Taxable supplies, excluding motor vehicles, imported or purchased for direct and exclusive use in geothermal, oil or mining prospecting or exploration, by a company granted prospecting or exploration license in accordance with Geothermal Resources Act (Cap. 314A), production sharing contracts in accordance with the provisions of Petroleum (Exploration and Production) Act (Cap. 308) or mining license

in accordance with the Mining Act (Cap. 306), upon recommendation by the Cabinet Secretary responsible for energy or the Cabinet Secretary responsible for mining, as the case may be.

**30A.** Taxable supplies, procured locally or imported for the construction of liquefied petroleum gas storage facilities with a minimum capital investment of four billion shillings and a minimum storage capacity of fifteen thousand metric tonnes as approved by the Cabinet Secretary for National Treasury upon recommendation by the Cabinet Secretary responsible for liquefied petroleum gas.

**31.** *deleted by Act No. 15 of 2017, s. 9*

**32.** *Repealed by Act No. 40 of 2013.*

**33.** Disposable plastic syringes of tariff No. 9018.31.10.

**34.** Other syringes with or without needles of tariff No. 9018.31.90.

**35.** Tubular metal needles and needles for sutures of tariff No. 9018.32.00.

**36.** Catheters, cannulae and the like of tariff No. 9018.39.00.

**37.** Blood bags.

**38.** Blood and fluid infusion sets.

**39.** (1) Subject to paragraphs (2) and (3), materials, articles and equipment, including motor vehicles, which—

- (a) are specially designed for the sole use by disabled, blind and physically handicapped persons;
- (b) are intended for the educational, scientific or cultural advancement of the disabled for the use of an organisation approved by the national Government for purposes of exemption.

(2) The exemption under paragraph (1) shall only apply—

- (a) once in every four years in respect of motor vehicles; and
- (b) to a person who has not enjoyed another exemption under the provisions of this Act.

(3) Paragraph (1)(b) does not apply to motor vehicles.

2941.20.00 Streptomycins and their derivatives; salts thereof.

2941.30.00 Tetracyclines and their derivatives; salts thereof.

2941.40.00 Chloramphenicol and its derivatives; salts thereof.

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| 2941.50.00 | Erythromycin and its derivatives; salts thereof   |
| 2941.90.00 | Other antibiotics.  |
| 3001.20.00 | Extracts of glands or other organs or of their secretions   |
| 3001.90.10 | Heparin and its salts.  |
| 3001.90.90 | Other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included.  |
| 3002.10.00 | Antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes.   |
| 3003.20.00 | Medicaments containing other antibiotics not put up in measured doses or in forms or packings for retail sale.  |
| 3003.31.00 | Medicaments containing insulin, not put up in measured doses or in forms or packings for retail sale.   |
| 3004.31.00 | Medicaments containing insulin put up in measured doses or in forms or packings for retail sale.  |
| 3005.10.00 | Adhesive dressings and other articles having an adhesive layer impregnated or coated with pharmaceutical substances or put in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.   |
| 3005.90.10 | White absorbent cotton wadding, impregnated or coated with pharmaceutical substances, or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.  |
| 3005.90.90 | Other wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes. |
| 3006.10.00 | Sterile surgical catgut, similar sterile suture materials and sterile tissue adhesives for surgical wound closure, sterile laminaria and sterile laminaria tents; sterile absorbable surgical or dental haemostatics.   |

- 3006.20.00. Blood-grouping reagents.
- 3006.30.00 Opacifying preparations for X-ray examinations; diagnostic reagents designed to be administered to the patient.
- 3006.40.00 Dental cements and other dental fillings; bone reconstruction cements.
- 3006.50.00 First-aid boxes and kits.
- 3006.60.00 Chemical contraceptive preparations based on hormones or spermicides.
- 3006.70.00 Gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments.
- 3006.91.00 Appliances identifiable for ostomy use.
- 3006.92.00 Waste pharmaceuticals.
- 8309.90.90 Aluminium pilfer proof caps with EPE liner.
- 8407.10.00
- 8409.10.00
- 8802.11.00 Helicopters of an unladen weight not exceeding 2,000 kg.
- 8802.12.00 Helicopters of an unladen weight exceeding 2,000 kg.
- 8802.20.00 Aeroplanes and other aircraft, of an unladen weight not exceeding 2,000 kg.
- 8802.30.00 Aeroplanes and other Aircrafts on unladen weight exceeding 2,000 kgs but not exceeding 15,000 kg.
- 8802.40.00 Aeroplanes and other Aircraft of unladen weight exceeding 15,000 kgs
- 8803.30.00 Other parts of aeroplanes helicopters.
- 8802.60.00 Spacecraft (including satellites) and suborbital and spacecraft launch vehicles.
- 8805.21.0. Air combat simulators and parts thereof.
- 8805.10.00 Aircraft launching gear and parts thereof; deck-arrestor or similar gear and parts thereof.

8805.29.00	Other ground flying trainers and parts thereof.
9619.00.10	Sanitary towels (pads) and tampons.
1101.00.00	Wheat or meslin flour.
0402.99.10	Milk, specially prepared for infants.
0402.91.10	Milk, specially prepared for infants.
0402.29.10	Milk, specially prepared for infants.
0402.21.10	Milk, specially prepared for infants.
1006.30.00	Semi-milled or wholly milled rice, whether or not polished or glazed.

Ordinary bread. Gluten bread. Unleavened bread.

**39.** (1) Subject to paragraphs (2) and (3), materials, articles and equipment, including motor vehicles, which—

- (a) are specially designed for the sole use by disabled, blind and physically handicapped persons;
- (b) are intended for the educational, scientific or cultural advancement of the disabled for the use of an organisation approved by the national Government for purposes of exemption.

(2) The exemption under paragraph (1) shall only apply—

- (a) once in every four years in respect of motor vehicles; and
- (b) to a person who has not enjoyed another exemption under the provisions of this Act.

(3) Paragraph (1)(b) does not apply to motor vehicles.

2941.20.00	Streptomycins and their derivatives; salts thereof.
2941.30.00	Tetracyclines and their derivatives; salts thereof.
2941.40.00	Chloramphenicol and its derivatives; salts thereof.
2941.50.00	Erythromycin and its derivatives; salts thereof.
2941.90.00	Other antibiotics.
3001.20.00	Extracts of glands or other organs or of their secretions
3001.90.10	Heparin and its salts.



- 3001.90.90 Other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included.
- 3002.10.00 Antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes.
- 3003.20.00 Medicaments containing other antibiotics not put up in measured doses or in forms or packings for retail sale.
- 3003.31.00 Medicaments containing insulin, not put up in measured doses or in forms or packings for retail sale.
- 3004.31.00 Medicaments containing insulin put up in measured doses or in forms or packings for retail sale.
- 3005.10.00 Adhesive dressings and other articles having an adhesive layer impregnated or coated with pharmaceutical substances or put in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.
- 3005.90.10 White absorbent cotton wadding, impregnated or coated with pharmaceutical substances, or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.
- 3005.90.90 Other wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail sale for medical, surgical, dental or veterinary purposes.
- 3006.10.00 Sterile surgical catgut, similar sterile suture materials and sterile tissue adhesives for surgical wound closure, sterile laminaria and sterile laminaria tents; sterile absorbable surgical or dental haemostatics.
- 3006.20.00 Blood-grouping reagents.
- 3006.30.00 Opacifying preparations for X-ray examinations; diagnostic reagents designed to be administered to the patient.
- 3006.40.00 Dental cements and other dental fillings; bone reconstruction cements.

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3006.50.00	First-aid boxes and kits.
3006.60.00	Chemical contraceptive preparations based on hormones or spermicides.
3006.70.00	Gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments.
3006.91.00	Appliances identifiable for ostomy use.
3006.92.00	Waste pharmaceuticals.
8309.90.90	Alluminium pilfer proof caps with EPE liner.
8407.10.00	
8409.10.00	
8802.11.00	Helicopters of an unladen weight not exceeding 2,000 kg.
8802.12.00	Helicopters of an unladen weight exceeding 2,000 kg.
8802.20.00	Aeroplanes and other aircraft, of an unladen weight not exceeding 2,000 kg.
8802.30.00	Aeroplanes and other Aircrafts on unladen weight exceeding 2,000 kgs but not exceeding 15,000 kg.
8802.40.00	Aeroplanes and other Aircraft of unladen weight exceeding 15,000 kgs.
8803.30.00	Other parts of aeroplanes helicopters.
8802.60.00	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles.
8805.21.0.	Air combat simulators and parts thereof.
8805.10.00	Aircraft launching gear and parts thereof; deck-arrestor or similar gear and parts thereof.
8805.29.00	Other ground flying trainers and parts thereof.
9619.00.10	Sanitary towels (pads) and tampons.
0402.99.10	Milk, specially prepared for infants.
0402.91.10	Milk, specially prepared for infants.
0402.29.10	Milk, specially prepared for infants.

- 0402.21.10 Milk, specially prepared for infants.  
 1102.20.00 Maize (corn) flour.  
 1006.30.00 Semi-milled or wholly milled rice, whether or not polished or glazed.

Ordinary bread. Gluten bread.

Unleavened bread.

**40.** Made-up fishing nets of man-made textile material of tariff No. 5608.11.00.

**41.** Mosquito nets of tariff No. 6304.91.10.

**42.** *deleted by Act No. 15 of 2017, s.9*

**43.** Materials, waste, residues and by-products, whether or not in the form of pellets, and preparations of a kind used in animal feeding of tariff numbers 2308.00.00, 2309.10.00, 2309.90.10, 2309.90.90, 2302.10.00, 2302.30.00, 2303.30.00, 2304.00.00, 2306.10.00, 2306.20.00, 2306.30.00, 2306.41.00, 2306.49.00, 2306.50.00, 2306.60.00, 2306.90.00, 2835.25.00 and 2835.26.00.

**44.** Unprocessed green tea.

**45.** Specialised solar equipment and accessories, including solar water heaters and deep cycle-sealed batteries which exclusively use or store solar power.

**46.** *Deleted by Act No. 14 of 2015, s. 5.*

**47.** Tractors.

**48.** Inputs or raw materials supplied to solar equipment manufacturers for manufacture of solar equipment or deep cycle-sealed batteries which exclusively use or store solar power as approved from time to time by the Cabinet Secretary for the National Treasury, upon recommendation by the Cabinet Secretary responsible for energy and petroleum.

**49.** Aircraft parts of heading 8803, excluding parts of goods of heading 8801.

**50.** Goods of tariff No. 4011.30.00.

**51.** Taxable goods, imported or purchased for direct and exclusive use in the implementation of official aid funded projects upon approval by the Cabinet Secretary responsible for the National Treasury.

**52.** Plastic bag biogas digesters.

**52A.** Biogas.

**52B.** Leasing of biogas producing equipment.

**53.** Parts imported or purchased locally for the assembly of primary school laptop tablets, subject to approval by the Cabinet Secretary for the National Treasury, on recommendation by the Cabinet Secretary responsible for matters relating to information technology.

**54.** Goods imported or purchased locally for use by the local film producers and local filming agents, upon recommendation by the Kenya Film Commission, subject to approval by the Cabinet Secretary to the National Treasury.

**55.** Taxable goods purchased or imported for direct and exclusive use in the construction and infrastructural works in industrial parks of one hundred acres or more including those outside special economic zones approved by the Cabinet Secretary for the National Treasury.

**56.** Inputs or raw materials locally purchased or imported by manufacturers of agricultural machinery and implements upon approval by the Cabinet Secretary responsible for industrialization.

**57.** All goods including material supplies, equipment, machinery and motor vehicles, for official use by the Kenya Defence Forces and the National Police Service.

**58.** Direction-finding compasses, instruments and appliances for aircraft.

**59.** Wheat seeds of tariff number 1001.11.00 and 1001.91.00.

**60.** Museum and natural history exhibits and specimens and scientific equipment for public museums.

**61.** Chemicals, reagents, films, film strips and visual aid equipment imported or purchased prior to clearance through the customs by the National Museums of Kenya.

**62.** Taxable goods for direct and exclusive use for the construction of tourism facilities, recreational parks of fifty acres or more, convention and conference facilities upon recommendation by the Cabinet Secretary responsible for matters relating to recreational parks.

For the purposes of this paragraph, "recreational parks" means an area or a building where a person can voluntarily participate in a physical or mental activity for enjoyment, improvement of general health, well-being and the development of skills.

**63.** Taxable goods, equipment and apparatus for the direct and exclusive use for construction of specialized hospitals with a minimum bed capacity of fifty with accommodation facilities upon the

recommendation by the Cabinet Secretary responsible for health who shall issue guidelines for the criteria to be used to determine eligibility for the exemption.

**64.** Garments and leather footwear, manufactured in an Export Processing Zone at the point of importation.

**65.** 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 approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to energy.

**66.** Inputs or raw materials locally purchased or imported by manufacturers of clean cook stoves approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary for the time being responsible for energy. Clean cook stoves” includes clean and energy saving cook stoves with tariff number 7321, as well as their parts and raw materials that are either imported or sourced locally, provided that the stoves meet ISO/IWA11:2012 standards of tier 2-4 for fuel efficiency, as determined by the Kenya Bureau of Standards.

**67.** Stoves, ranges, grates, cookers (including those with subsidiary boilers for central heating) barbecues, braziers, gas-rings, plate warmers and similar non- electric domestic appliances, and parts thereof, of 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.

**68.** Super absorbent polymer (SAP) of tariff number 39.06.90.0.

**69.** Carrier tissue white, 1 ply 14.5 GSM of tariff number 4703.21.00.

**70.** IP super soft fluff pulp — fr-fluff 310 treated pulp 488\*125mm (cellose) of tariff number 4703.21.0.

**71.** Perfo rated PE film 15-22 gsm of tariff number 3921.190.0.

**72.** Spunbound non-woven 15-25 gsm of tariff number 56.03.1190.8.

**73.** Airlid paper with super absorbent polymer 180gsm/67 of tariff number 48.03.00.0.

**74.** Airlid paper with super absorbent polymer 80gsm/67 of tariff number 48.03.00.0.

**75.** Airlid paper without super absorbent polymer 180gsm/67 of tariff number 48.03.00.0.

**76.** Airlid paper without super absorbent polymer 80gsm/67 of tariff number 48.03.00.0.

- 77.** Pressure sensitive adhesive of tariff number 3506.91.90.
- 78.** Plain polythene film/LPDE of tariff number 39.21.190.0.
- 79.** Plain polythene film/PE of tariff number 39.21.190.0.
- 80.** PE white 25-40gsm/release paper of tariff number 48.44.51.10.0.
- 81.** ADL — 25-40gsm of tariff number 56.03.1190.8.
- 82.** Elasticized side tape of tariff number 5402.4410.
- 83.** 12-16 gsm spunbound piyropononwoven coverstock /12 gsm spunbound PP non-woven SMS hydrophobic leg cuffs of tariff number 56.03.1190.8.
- 84.** Polymetric elastic 2/3 strands of tariff number 3919.90.90.10.
- 85.** Plain polythene film/PE of tariff number 39.20.10.10.
- 86.** PE white 25-40gsm/release paper of tariff number 48.10.99.00.
- 87.** 12-16 gsm spunbound piyropononwoven coverstock/15gsm spunbound PP non-woven SSMMS hydrophobic leg cuffs of tariff number 56.03.1190.
- 88.** Goods falling under tariff number 4907.00.90.
- 89.** Any other aircraft spare parts imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation.
- 90.** Inputs for the manufacture of pesticides upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to agriculture.
- 91.** Specially designed locally assembled motor vehicles for transportation of tourists, purchased before clearance through Customs by tour operators upon recommendation by the competent authority responsible for tourism promotion, provided the vehicles meet the following conditions—
  - (i) the vehicles shall at all times be registered and operated by a company that is licenced under the Tourism Vehicle Regime;
  - (ii) the vehicles shall be used exclusively for the transportation of tourists;
  - (iii) the vehicles shall have provisions for camping, rescue and first aid equipment, luggage compartments and communication fittings; and
  - (iv) any other condition the Commissioner may impose:

Provided that tax shall become payable upon change of use or disposal of the vehicle for other use.

**92.** Transportation of cargo to destinations outside Kenya.

**93.** Materials for the construction of grain storage, upon recommendation by the Cabinet Secretary for the time being responsible for agriculture.

*Second Schedule to Act No. 35 of 2013 which it is intended to amend*

## ZERO-RATING

### PART A – ZERO RATED SUPPLIES

Where the following supplies, excluding hotel accommodation, restaurant or entertainment services where applicable, take place in the course of a registered person's business, they shall be zero rated in accordance with the provisions of section 7—

- 1.** The exportation of goods or taxable services.
- 2.** The supply of goods or taxable services to an export processing zone business as specified in the Export Processing Zones Act (Cap. 517), as being eligible for duty and tax free importation.
- 3.** Shipstores supplied to international sea or air carriers on international voyage or flight.
- 4.** The supply of coffee and tea for export to coffee or tea auction centers.
- 5.** Transportation of passengers by air carriers on international flight.
- 6.** The supply of taxable services to international sea or air carriers on international voyage or flight.
- 7.** The transfer of a business as a going concern by a registered person to another registered person.
- 8.** The supply of natural water, excluding bottled water, by a National Government, County Government, any political sub-division thereof or a person approved by the Cabinet Secretary for the time being responsible for water development, for domestic or for industrial use.
- 9.** Goods purchased from duty free shops by passengers departing to places outside Kenya.
- 10.** Supply of taxable services in respect of goods in transit.
- 11.** Inputs or raw materials (either produced locally or imported) supplied to pharmaceutical manufacturers in Kenya for manufacturing medicaments, as approved from time to time by the Cabinet Secretary in

consultation with the Cabinet Secretary responsible for matters relating to health.

12. The supply of goods or taxable services to a special economic zone enterprise.

13. The supply of liquefied petroleum gas.

13. The supply of maize (corn) flour, ordinary bread and cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten per-cent in weight.

14. Taxable goods supplied to marine fisheries and fish processors upon recommendation by the relevant state department.

15. Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of tariff numbers—

0401.10.00—of a fat content, by weight, not exceeding 1%;

0401.20.00—of a fat content, by weight, exceeding 1% but not exceeding 6%;

0401.40.00—of a fat content, by weight, exceeding 6% but not exceeding 10%;

0401.50.00—of a fat content, by weight, exceeding 10%.

16. All inputs and raw materials whether produced locally or imported, supplied to manufacturers of agricultural pest control products upon recommendation by the Cabinet Secretary for the time being responsible for agriculture.

17. Agricultural pest control products.

## PART B

### ZERO RATED SUPPLIES TO PUBLIC BODIES, PRIVILEGED PERSONS AND INSTITUTIONS

The following taxable supplies shall be zero-rated when supplied by a registered person before the imposition of tax or imported before clearance through the customs by or on behalf of the following persons subject to the limitations specified in this Schedule—

#### 1. Supply to Commonwealth and other Governments

(a) Goods consigned to officers or men on board a naval vessel belonging to another Commonwealth Government for their personal use or for consumption on board such vessel.

(b) Goods for the use of any of the Armed Forces of any allied power.



## **2. Supply to Diplomat or First Arrivals Persons**

(1) Household and personal effects of any kind imported by entitled personnel or their dependants including one motor vehicle imported or supplied to them prior to clearance through customs within ninety days of their first arrival in Kenya or such longer period not exceeding three hundred and sixty days from the date of his arrival, as may be approved by the Commissioner of Customs in specific cases where the entitled personnel have not been granted zero rating status in any other section of this Schedule.

Provided that the zero rating shall apply to entitled personnel who may have arrived for a new contract notwithstanding their previous residential status in Kenya while in execution of another assignment, provided further that each contract is for a term not less than two years.

(2) One motor vehicle which the ministry responsible for foreign affairs is satisfied as having been supplied or imported as a replacement for a motor vehicle originally imported or supplied under paragraph (1) which has been written off due to accident, fire or theft:

Provided that tax shall be payable at the appropriate rate if the written off motor vehicle is disposed of locally.

(3) Taxable supplies for the official use of the United Nations or its specialized agencies or any Commonwealth High Commission, or of any foreign embassy, consulate or diplomatic mission in Kenya.

(4) Taxable supplies for the use of a high official of the United Nations or its specialized agencies, or a member of the diplomatic staff of any Commonwealth or foreign country, where specific provision for such zero rating status is made by the Cabinet Secretary responsible for foreign affairs.

(5) Taxable supplies Goods for the United Nations or any of its specialized agencies for the support of a project in Kenya.

(6) On first arrival in Kenya or within three months of that date, the household and personal effects, including one motor vehicle, of an employee of the United Nations, or of its specialized agencies, of any Commonwealth High Commission, or of any foreign embassy, consulate or diplomatic mission, where the employee—

- (a) is not engaged in any other business or profession in Kenya; and
- (b) has not been granted any other zero rating status under this schedule.

(7) Any motor vehicle acquired under zero rating status pursuant to the provisions of this paragraph shall on re-sale or upon other disposition, whether or not for any material consideration, be liable to tax.

### **3. Supply to donor agencies with bilateral or multilateral agreements**

(1) Household and personal effects of any kind, including one motor vehicle imported by or supplied prior to clearance through Customs to the entitled personnel or their dependants, within ninety days of their first arrival in Kenya or such longer period not exceeding three hundred and sixty days from the date of his arrival, as may be approved by the relevant authority in specific cases where the entitled personnel have not been granted any zero-rated status under this schedule.

Provided that the zero rated status under this paragraph shall apply—

- (i) to entitled personnel who may have arrived for a new contract for a term of not less than two years, notwithstanding their previous residential status in Kenya while in execution of another assignment;
- (ii) only once every four years where there is an on going project; and
- (iii) to an additional motor vehicle where there is a bilateral agreement between the Government and aid agency.

(2) One motor vehicle, which the Commissioner is satisfied, is supplied or is imported as a replacement of another motor vehicle originally supplied or imported under paragraph (1) and which has been written off due to accident, fire or theft:

Provided that any motor vehicle acquired free of tax pursuant to the provisions of this item shall on resale or upon other disposition whether or not for any material consideration be liable for tax.

### **4. Supply to international and regional organizations**

Goods and equipment imported by or supplied to donor agencies, international and regional organisations with Diplomatic accreditation or bilateral or multilateral agreements with Kenya for their official use.

### **5. Supply to the War Graves Commission**

Taxable supplies including official vehicles, for the establishment and maintenance of war cemeteries by the Commonwealth War Graves Commission, but excluding office supplies and equipment and the property of the Commission's staff.

## 6. Passengers' baggage and personal effects

Goods imported by passengers arriving from places outside Kenya, subject to the limitations and conditions specified in the following paragraphs.

(1) The goods shall be—

- (a) the property of and accompanying the passenger, except as provided in paragraph (7);
- (b) for the personal or household use of the passenger in Kenya; and
- (c) of such kinds and in such quantities as the proper officer may allow.

(2) Notwithstanding paragraph (1)(c), the following goods shall not be zero-rated under this item—

- (a) alcoholic beverages of all kinds, perfumed spirits and tobacco and manufactures thereof, except as provided in paragraphs (6) and (7);
- (b) fabrics in the piece;
- (c) motor vehicles except, as provided in paragraphs (3) and (4);
- (d) any trade goods, or goods for supply or disposal to other persons.

(3) Subject to paragraphs (1) and (2), the following goods may be zero-rated under this item when imported as baggage by a person on first arrival or by a returning resident of Kenya whom the proper officer is satisfied is *bona fide* changing residence from a place outside Kenya to a place within Kenya—

- (a) wearing apparel;
- (b) personal and household effects of any kind which were in his personal or household use in his former place of residence;
- (c) one motor vehicle, (excluding buses and minibuses of a seating capacity of more than 13 passengers and load-carrying vehicles of a load carrying capacity exceeding two tones) which the passenger has personally owned and used outside Kenya for at least twelve months (excluding the period of the voyage in the case of shipment):

Provided—

- (i) person has attained the age of eighteen years; and

- (ii) where the person has previously been granted zero-rating under this paragraph, any subsequent zero-rating shall not apply unless such person has used the motor vehicle so imported into Kenya for a period of not less than four years, and tax has been paid for the motor vehicle upon which zero rating had previously been granted.
- (iii) where the returning resident has owned and used a left hand drive vehicle for at least twelve months the person may sell the vehicle and import a right hand drive vehicle of whose current retail selling price does not exceed that of the previously owned left-hand-drive vehicle, subject to the following conditions—
  - (A) the person shall provide proof of ownership and use of the previously owned left-hand-drive vehicle in the country of former residence for a period of at least one year prior to the return;
  - (B) the person shall provide proof of disposal of the previously owned left-hand-drive vehicle before changing residence; and
- (iv) subparagraph (iii) shall only apply to residents returning from countries that operate Left Hand Drive motor vehicles.

(4) Subject to paragraphs (1) and (2) the following goods services may be zero- rated under this item when imported as baggage by a person whom the proper office is satisfied is making a temporary visit not exceeding three months to Kenya—

- (a) non-consumable goods imported for his personal use during his visit which he intends to take out with him when he leaves at the end of his visit;
- (b) consumable provisions and non-alcoholic beverages, in such quantities and of such kinds as are, in the opinion of the proper officer, consistent with his visit;
- (c) goods imported by a returning resident, being an employee of an international organization the headquarters of which are in Kenya, and who has been recalled for consultations at the organization's headquarters.

(5) Subject to paragraphs (1) and (2), the following goods may be zero rated under this item imported as baggage by a person who the proper officer is satisfied is a resident of Kenya returning from a visit outside

Kenya and who is not changing residence in accordance with paragraphs (3) and (4)—

- (a) wearing apparel;
- (b) personal and household effects which have been in his personal or household use.

(6) Subject to paragraph (1) and subject to subparagraph(b) of this paragraph, tax shall not be levied on the following goods imported by, and in the possession of a passenger—

- (a) spirits (including liquors) or wine, not exceeding one litre or wine not exceeding two litres;
- (b) perfume and toilet water not exceeding in all one half litre, of which not more than a quarter may be perfume;
- (c) cigarettes, cigars, cheroots, cigarillos, tobacco and snuff not exceeding in all 250 grams in weight:

Provided that the tax free allowance under this paragraph shall be granted only to passengers who have attained the age of eighteen years.

(7) Subject to paragraphs (1) and (2)—

- (a) the zero rating granted in accordance with paragraphs (3), (4) and (5) may be allowed in respect of baggage imported within ninety days of the date of arrival of the passenger or such further period, not exceeding three hundred and sixty days from such arrival, as the Commissioner may allow;
- (b) the tax free allowances granted in accordance with paragraph (6) shall not be allowed in respect of goods specified in the paragraph imported in unaccompanied baggage.

(8) Where any person who has been granted zero-rating under paragraphs (3) or (4) changes his residence to a place outside Kenya within ninety days from the date of his arrival, he shall export his personal or household effects within thirty days, or such further period, not exceeding sixty days from the date he changes such residence to a place outside Kenya, as the Commissioner may allow, otherwise tax shall become due and payable from the date of importation.

(9) Subject to paragraphs (1) and (2), goods up to the value of three hundred United States Dollars for each traveler in respect of goods, other than goods referred to in paragraph (9), shall be zero rated when imported by the traveler in his or her accompanied baggage, or upon his or her person and declared by him or her to an officer, provided that the person has been outside Kenya for a period in excess of twenty-four hours.

### **7. Relief goods supplied or imported for emergency use**

Taxable goods for emergency relief purposes for use in specific areas and within a specified period, supplied to or imported by the Government or its approved agent, a non-governmental organization or a relief agency authorized by the Cabinet Secretary responsible for disaster management, where—

- (a) the goods are for use in areas where a natural disaster or calamity has occurred in Kenya; or
- (b) the goods are intended for use in officially recognized refugee camps in Kenya;
- (c) the goods are household utensils, foodstuffs, materials for provision of shelter or equipment and materials for health, sanitary or educational purposes; and
- (d) in the case of a natural disaster or calamity, the importation or purchase locally is made within six months or such further period, not exceeding twelve months, as the Commissioner may permit in each case.

### **8. Supply to National Red Cross Society and St. John Ambulance**

Taxable goods and services supplied or imported for official use in the provision of relief service.

### **9. Supply of protective apparel, clothing accessories and equipment**

#### **PART C**

Medicaments of the following HS Codes shall be zero rated—

3002.20.0	Vaccines for human medicine.
3002.30.0	Vaccines for veterinary medicine
3003.10.00	
3003.20.00	
3003.39.00	Other medicaments, containing hormones or other products of heading No. 29.37 but not containing antibiotics, not put up in measured doses or in forms or packings for retail sale.
3003.40.00	Medicaments containing alkaloids or derivatives thereof but not containing hormones or other products of heading No. 29.37 or antibiotics, not put up in measured doses or in forms or packings for retail sale.

- 3003.90.10 Infusion solutions for ingestion other than by mouth not put up in measured doses or in forms or packings for retail sale.
- 3003.90.90 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale.
- 3004.10.00 Medicaments containing penicillins or derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives, put up in measured doses or in forms or packings for retail sale.
- 3004.20.00 Medicaments containing other antibiotics, put up in measured doses or in forms or packings for retail sale.
- 3004.32.00 Medicaments containing adrenal cortical hormones, put up in measured doses or in forms or packings for retail sale.
- 3004.39.00 Other medicaments containing hormones or other products of heading No. 29.37 but not containing antibiotics, put up in measured doses or in forms or packings for retail sale.
- 3004.40.00 Medicaments containing alkaloids or derivatives thereof but not containing hormones, or other products of heading No. 29.37 or antibiotics, put up in measured doses or in forms or packings for retail sale.
- 3004.50.00 Other medicaments containing vitamins or other products of heading No. 29.36 put up in measured doses or in forms or packings for retail sale.
- 3004.90.00 Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.

3004.90.90

Other medicaments (excluding goods of heading No. 30.02, 30.05 or 30.06) consisting of mixed or unmixed products, for therapeutic or prophylactic uses, put up in measured doses or in forms or packings for retail sale.