

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2018**

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**NAIROBI, 25th July, 2018**

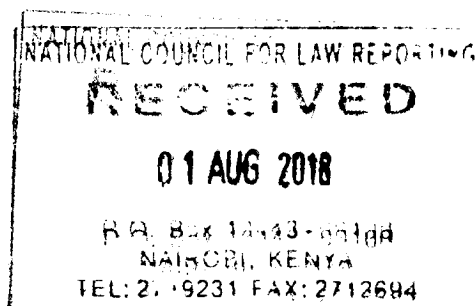
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# THE TAX LAWS (AMENDMENT) ACT

## No. 9 of 2018

*Date of Assent: 18th July, 2018*

*Date of Commencement: See Section 1*

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

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

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

(2) This Act shall come into operation, or be deemed to have come into operation as follows—

(a) provisions relating to the Income Tax Act, on the 1st of July, 2018;

(b) provisions relating to the Stamp Duty Act, on the 1st of October, 2018; and

(c) the provisions relating to the Value Added Tax, 2013 on the 1st of July, 2018.

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 definition of the expression “winnings” and substitute therefor the following definition- “winnings” means the positive difference between payouts made and stakes placed in a given month, for each player, payable to punters by bookmakers licenced under the Betting, Lotteries and Gaming Act;
	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. 30A                    Insert the following new section  
immediately after section 30-

Affordable housing  
relief

**30A.** (1) A resident individual who  
satisfies the Commissioner that in a year of  
income that the person—

- (a) is eligible to make an application  
under an affordable housing  
scheme;
- (b) has applied and is awaiting the  
allocation of a house under an  
affordable housing scheme; and
- (c) is saving for a purchase under an  
affordable housing scheme approved  
by the Cabinet Secretary in charge  
of housing,

shall for that year of income be entitled  
to a personal relief in this Act referred to as  
the affordable housing relief.

(2) A person who has been allocated a  
house under the affordable housing scheme  
and has been subject to an affordable housing  
relief under subsection (1) shall not be re-  
eligible for a subsequent relief.

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. Compensating tax accruing to a power producer under a power purchase agreement.

Third Schedule Head A Paragraph 3. Insert the following new paragraph immediately after paragraph 2—

Affordable housing relief.

3. The amount of affordable housing relief shall be 15% of the gross emoluments but shall not exceed Ksh. 108,000 per annum.

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.10A

Delete subsection(1) and substitute therefor the following subsection—

(1) The Collector of Stamp Duties shall refer to the Chief Government Valuer or a registered and practicing valuer appointed by the Chief Government Valuer any conveyance or transfer on sale of any immovable property before or after registration of the relevant instruments in order to determine the true open market value of such property as at the date of the

conveyance or transfer for purposes of ascertaining whether any additional stamp duty is payable.

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

95. 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.

96. 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 firefighting.

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

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

99. 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;
  - (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.

100. 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.

Second Schedule,  
Part A,  
paragraph 7

Delete.

Paragraph 8. Delete.

Paragraph 13. Delete the second paragraph 13 and substituting therefor the following paragraph—

13A. The supply of ordinary bread.

Paragraph 14. Delete.

Paragraph 17. Delete.

Paragraph 18. Insert the following new paragraph immediately after paragraph 17—

18. Inputs or raw materials for electric accumulators and separators including lead battery separator rolls whether or not rectangular or square supplied to manufacturers of automotive and solar batteries in Kenya.

Part B,  
paragraph 6.

Delete.

Paragraph 7. Delete.