INTRODUCTION

We, the Okoa Uchumi Campaign partners and citizens from different parts of Kenya dedicated to strengthening public participation and social accountability in the public debt process are deeply concerned by the Government's recently released estimated budget for the 2024/25 FY and the Finance Bill of 2024.

Contrary to constitutional provisions, the National Assembly is considering the Finance Bill, 2024 before approving the Appropriations Act 2024, which is unlawful. The Finance Bill 2024 is based on the FY 2024/2025 budget estimates submitted on April 30, 2024. The Finance Act and Appropriation Act are interdependent, with the former generating resources and the latter detailing expenditure. Section 39 (4)(a) of the Public Finance Management Act mandates that revenue raised must align with the approved fiscal framework. Enacting the Finance Act 2024 before the Appropriations Act 2024 constitutes a fraudulent scheme of mismanaging taxpayer funds.

It is on this basis and in the interest of the Kenyan Citizens who are at risk of suffering more harm in access of essential services necessary for greater enjoyment of fundamental rights and freedoms due from the government of Kenya and pervasive and extractive tax remittance that we highlight the following concerns: -

Estimated Budget 2024/25FY

The estimated Budget for the 2024/25 FY reveals that some sectors which are key drivers of the Kenya economy have experienced massive budget cuts. This is going to affect basic service delivery to the Kenyan citizen. The key sectors affected are: -

i. **Education and Research are state departments in the sector which are proposed to budget cuts.** This will reduce the number of those who attend school and the quality of education offered. The free primary and secondary education programs will have their allocation reduced by Kshs. 12.03 billion. One can easily infer from this that education is not really free per se. The Higher Education Loans Board (HELB) is also set to be reduced by Kshs. 3.69 billion. The resultant is that access to higher education will be jeopardized as many rely on HELB to fund their university education. The number of those pursuing further education to university will decline. While the government constantly refers to inclusion of vulnerable groups in service delivery, it is set to drastically compromise on the right to education for special needs schools by significantly reducing its budget by 42%. This is a retrogressive step in the right to education which ought to be progressively realized. Further, while the government promised to increase the number of learners who benefit from the school feeding programme to about Kshs. 16 million, in its executive proposals for 2024/25, no budget line has been allocated towards school health, nutrition and meals. This situation places a significant burden on many school-going children who struggle to attend school. To keep these children in school, well-wishers have been stepping in to fill the gap left by the government, often using their own money and organizing private fundraisers. However, they will now be forced to dig even deeper to sustain these efforts through meal provisions. For many of these children, having a meal provided at school is a crucial motivator for their attendance. Without this support, the risk of increased absenteeism looms large, as a reliable meal at school is not just nourishment, but a lifeline for their education and future.

ii. **The Health Sector-**The State Department for Health is set to have its budget shrink by 10.6%. One of the projects affected by the reduction in this budget is the Free Maternity Program (The Linda Mama cover), which has in the past aided pregnant women to access maternity care free of charge. This allocation for the free maternity program has been reduced by 50%. We are thus likely to witness unexpected financial burdens on families which could lead to an increase in unsafe home births and the quality of healthcare received by mothers and their newborns could potentially be compromised. This budget cut further affects general administration of health facilities to a tune of 10.26 billion. This has a direct impact on human resources and the general operations of health facilities. This crisis arises amidst ongoing strikes by clinical officers and medical laboratory technicians, while doctors are just returning from industrial action. The budget estimates pose a serious threat to the country's health security system, particularly affecting the counties, as health services are a devolved function. Further to this, the National government continues to claw back gains made by devolution in the health sector by compelling counties to sign into the Medical Equipment Service program, where counties hire medical equipment whether they have the capacity or not. The Budget Estimates 2024/25 projects that the program shall use 3.56 billion. This may be celebrated as a good idea but to most counties it is too expensive and is unsustainable. This threatens the ability of counties to offer quality primary healthcare to Kenyans.

iii. **Agriculture Sector-**Kenya's economy is heavily reliant on agriculture, and it is among the nations who committed to end hunger by 2030. Nevertheless, with the current budget cuts by 18% in the agriculture docket in the department of Agriculture, Rural and Urban Development (ARUD) this might be far-fetched. Across all state departments in this sector, the development side of the budget is facing a higher cut at

21 percent, compared to the recurrent budget, which is also slashed by 11 percent. This suggests that projects related to infrastructure and long term investments might be more affected than the day-to-day operational costs within the sector. Given the recent disaster in the country, one would deem it prudent that the government upgrade its disaster management responses and channel appropriate funds to that sector, yet from the budget estimates the allocation in this sector has been reduced to Kshs. 10 billion from Kshs. 24 billion. Lack of sufficient funding in this docket can be catastrophic when disaster strikes and can lead to loss of lives, means of livelihood and deteriorated health among citizens because of lack of adequate response mechanisms and service delivery.

iv. **The Social Protection and Disaster Response sector-** under the social protection sector, the State Department for Social Protection and Senior Citizens Affairs will receive an 8% reduction in its budget allocation. Moreover, the allocation to the SPCR sector in FY 2024/25 is roughly equivalent to its 2020/21 allocation of Ksh. 70.1 billion, a period between which the service delivery demand or requirement of social protection cannot be said to have stayed the same. On the other hand, the Women Enterprise Fund will receive a massive reduction of 40% in its allocation.

v. **Increased Public debt servicing.** Debt repayments are set to account for 39% of total expenditure, and 63% of projected ordinary revenue in the 2024/25 FY, an increase of 26% from the 2023/24FY. We opine that this allocation is based on the government's wishes and desires and not the welfare of its citizens or the Kenyan economy. Several independent institutions are set to have their budgets cut. For instance, to be able to also service its public debt, a department such as the office of the Auditor General that plays a critical role in carrying out audits and reporting on the use of public resources by all entities funded from public funds will have its budget slashed. At a time when the advocacy efforts are being put to have the public debts audited, a reduction in their funds will most likely paralyze the office and prevent it from efficiently carrying out its duties and this threatens economic growth and sustainability of service delivery to citizens. This is also a flagrant violation of Article 203 (1) of the Constitution which prescribes that in matters of equitable share the national interest should take precedence.

However, it is very disturbing that while the budgets of such crucial sectors have shrunk, the number of MDAs within the executive have had their budgets increased. Finally, we note that the budget process remains low on public participation with no engagement at the constituency level, and most of the feedback is neglected.

The Finance Bill, 2024

The non-citizen-focused budget is proposed to be financed by increased taxes to Kenyan taxpayers without commensurate investment in apt service delivery; thus, the burden on Kenyans is set to be further worsened if the Finance Bill, 2024 is passed into law. The Finance Bill, 2024 enshrines unfair, unjust and harsh clauses which will be to the detriment of the common *mwananchi*. The Bill is keen to impose heavy tax burdens on the common *mwananchi* by attacking every aspect of their lives, from the food they eat for health and spiritual communion, to the cars they use to travel either as commuters or owners, the communication sector that is a major source of social cohesion and health to the banking sector where mobile banking sector that dries most economic transactions in Kenya. A Kenyan taxpayer is staring at a short, miserable life with a raft of violations from the government.

Despite the government's elaborate plans to increase the tax burden, they have not reciprocated the same energy towards the fight against revenue leakages through corruption, illicit trade and money laundering. According to the Ethics and Anti-Corruption Commission, Kenya loses KSh. 608 billion/= (7.8% of the country's GDP) to corruption annually. The Corruption perception index 2023 places Kenya at a score of 31/100, which shows deterioration in the Kenya anti corruption efforts. It is under this premise that the Okoa Uchumi asserts that continued taxation without accountability is extortion.

An attempt by the government to meet its debt obligations, some of which are odious debt and hence not legitimate and should not be a burden to the citizens. The Bill more specifically:

i. Enshrines a proposal exempting KRA from the constraints of the Data Protection Act in accessing taxpayers' data. This is a flagrant violation of one's right to privacy as set out under Article 24 (2) of the Constitution of Kenya, 2010. There are high chances of surveillance for taxation purposes to be used for persecution.

ii. Proposes to remove gluten bread and unleavened bread from VAT while also removing VAT zero rating on the supply of ordinary bread, milk, cream and all inputs and raw materials produced both locally and imported. This is bound to increase these items' costs, and the majority will not be able to afford them. This will be an abuse of the government's duty to ensure that food is available and accessible. A clear violation of the right to food.

iii. Proposes to introduce a tax on motor vehicles at 2.5% of the value of the vehicle. The implication of this is that it is likely to increase the tax burden of citizens. This tax is problematic because it is not progressive in nature because the minimum tax payable will be Kshs. 5000 hence owners whose cars are less than Kshs. 200,000 will pay more than 2.5% of the value of their vehicles. On the other hand, those whose vehicles are more than Kshs. 4,000,000 will pay a lower tax rate since this tax is capped at Kshs.100,000. This tax is unjust and burdensome to middle and low-income earners.

iv. The proposal empowers KRA to require taxpayers to integrate eTIMS. Failure to comply with this requirement will result in a monthly penalty not exceeding Kshs. 2 million. This will mainly target and hurt small businesses since large businesses are already integrated with KRA systems.
v. The proposal is to increase the import declaration fee from 2.5% to 3%, which will increase the cost of imported goods.
vi. Proposal to increase the excise on telephone and internet data services. This comes at a time when the government declared its support for the digital world. Imposing such a tax will hinder many from accessing information purposes such as education and current affairs and will also impact the ease of communication.

The purpose of this letter is to highlight and bring to attention the negative effects that the budget estimates for the 2024/25 FY and the Finance Bill, 2024 will have on public service delivery, and the economy at large. The protest on some proposals of the Finance Bill 2024 are grounds to show that Kenyans can shape the fiscal discourse in our country as provided for in our Public Finance Management Act, 2012 and the Constitution of Kenya. We desire to see a country where accountability is highly valued and where talks on the fiscal consolidation are led by the Executive and the Legislature in a manner that is dignified, justified and takes into account the welfare of ordinary Kenyan Taxpayer *ambaye anategemewa*.

We provide feedback on specific clauses as follows:

OKOA UCHUMI ANALYSIS OF FINANCE BILL, 2024

	CLAUSE (as it is in the Bill)	ANALYSIS OF IMPLICATIONS	PROPOSAL	JUSTIFICATION
	INCOME TAX ACT			
	Amendment of section 2 of Cap.470. 2. Section 2 of the Income Tax Act is amended- (a) in the definition of "digital content monetisation", by adding the following new paragraphs immediately after paragraph (h)- (j) creative works; (k) creating or sharing of the material; or	This proposal includes creative works, that is works that one develops from their original ideas and abilities as part of digital content that is monetized and subject to the Income tax Act. Sharing such creative work will also be subject to the Act.	Accept this proposal in entirety.	This is casting the net to the artist category resulting in more revenue collection.

	(I) any other material that is not exempt under this Act;			
	Amendment of section 4A of Cap 470 4. Section 4A of the Income Tax Act is amended in (1)(ii), by deleting the words "five years" and substituting therefore the words "three years".	The proposed Bill suggests reducing the timeframe for individuals to defer and claim a foreign exchange loss from five years to three years from the date of realization. Presently, according to the Income Tax Act, if a company's gross interest paid or payable to a non-resident individual surpasses thirty percent of the company's earnings before interest, taxes, depreciation, and amortization (EBITDA) in any financial year, the realized foreign exchange loss can be deferred and claimed within a period not exceeding five years from the date of realization.	Reject this proposal in its entirety.	The proposal comes barely a year after the Finance Act 2023 capped the deferment and claim of foreign exchange losses to five years. If it becomes a law, it will hurt taxpayers who can't claim their losses within three years. Changing laws every year, especially ones that have only been around for a short time, makes it hard for people to know what to expect with taxes in Kenya. It also makes doing business in Kenya more difficult.
	Insertion of new section 4C to Cap.470.	The proposal introduces withholding tax on goods supplied to public entities by both resident persons and non-	Accept this proposal in its entirety;	This is a right step towards fairness and equity seeing as most payments for goods and

	5. The Income Tax Act is amended by inserting the following new section immediately after section 4B 4C. The payment received by a person from a public entity for the supply of goods shall be deemed to be the income of the person for the year of income in which the payment is received.	resident persons without a permanent establishment at (3%) of the amount paid if the payment is to a resident person and (5%) if the payment is to a non-resident person. The withholding tax shall be a final tax		services to the government are often highly inflated.
	Repeal and replacement of section 12E of Cap. 470. The Income Tax Act is amended by repealing section 12E and replacing it with the following new section - Significant Economic Presence Tax 12E. (1) Notwithstanding any other provision of this Act, a tax known as significant economic presence tax shall be payable by a non-resident person whose income from the provision of services is	The Bill proposes to amend the ITA to repeal the provisions relating to Digital Service Tax (DST) which applies at the rate of 1.5% of the gross transaction value and replace it with a new deemed profit-based taxing right based on significant economic presence known as the Significant Economic Presence Tax.	Accept this proposal. However, a clear definition of the “gross turnover” and “significant economic presence” is needed for better implementation.	As much as the proposal seeks to widen the tax base there is a need to approach it with caution since the OECD framework has been criticized by developing countries as it is seen as a developed countries' idea and there is no clarity on how Kenya will gain. It is feared that there might be policy incoherence especially with the UN Tax Framework.

	derived from or accrues in Kenya through a business carried out over a digital marketplace. (2) Subsection (1) shall not apply- (a) to a non-resident person who offers the services through a permanent establishment; or (b) to an income chargeable under section 9(2) or section 10. (3) For the purposes of computing the tax under subsection (1), the taxable profit of a person liable to pay the tax shall be deemed to be twenty percent of the gross turnover. (4) A person subject to tax under this section shall submit a return and pay the tax due to the Commissioner on or before the			

	twentieth day of the month following the end of the month in which the service was offered. (5) The Cabinet Secretary may make Regulations for the better implementation of this section.			
	9. The Income Tax Act is amended by inserting the following new sections immediately after section 12F - 12G. (1) Notwithstanding any other tax. provision of this Act, a tax known as minimum top-up tax shall be payable by a covered person where the combined effective tax rate in respect of that person for a year of income is less than fifteen per cent. (2) The combined effective tax rate for a covered person shall be the sum of all the adjusted covered taxes, divided by the sum of all net income or loss for the year of income, multiplied by a hundred.	The Bill proposes to introduce a new tax known as a Minimum Top-Up Tax to be paid by a person or entity resident in Kenya or with a permanent establishment in Kenya, which is a member of a multinational group where the combined effective tax rate for that person for the year is less than 15% (referred to as a 'covered person'}.	Accept this proposal.	As much as the proposal seeks to widen the tax base there is need to approach it with caution since the OECD framework has been criticized by developing countries as it is seen as a developed countries idea and there is no clarity on how Kenya will gain. It is feared that there might be policy incoherence especially with the UN Tax Framework.

	(3) The amount of tax payable shall be the difference between fifteen percent of the net income or loss for the year of income of a covered person, and the combined effective tax rate for the year of income, multiplied by the excess profit of the covered persons.			
	Motor vehicle tax. 12H. (1) Notwithstanding any other provision of this Act, a motor vehicle tax shall be payable to the Commissioner on each motor vehicle at the time of the issuance of an insurance cover. (2) Motor vehicle tax shall be payable based on the value of the motor vehicle, at the rate specified in the Third Schedule.	The proposal seeks to introduce a new tax known as Motor Vehicle Tax which will be payable on each motor vehicle at the time of issuance of an insurance cover at the rate of 2.5% of the value of the motor vehicle, which will be determined based on the make, model, engine capacity and year of manufacture of the vehicle. The Bill proposes a minimum tax amount of Kshs. 5,000 and a capped maximum of Kshs. 100,000 payable on each vehicle. The tax applies across both electric vehicles	Reject the proposal in its entirety.	First and foremost there is nothing to qualify this tax to fall under income as owning a vehicle and paying insurance doesn't constitute income, as such this is wrongly placed in the Income Tax Act. Secondly, this tax creates an undue burden to the owners of motor vehicles who already pay the fuel levy at a rate of Kshs. 0.75 per liter. This addition further constitutes double taxation as an advance tax already exists for vehicles that are used for commercial purposes. For instance, vans, pickups, trucks, prime movers,

	(3) The value of a motor vehicle shall be determined on the basis of the make, model, engine capacity in cubic centimeters and year of manufacture of the motor vehicle. (4) An insurer of a motor vehicle shall collect and remit motor vehicle tax within five working days after issuing a motor vehicle insurance cover. (5) An insurer who fails to collect and remit motor vehicle tax shall be liable to pay- (a) a penalty equivalent to fifty per cent of the uncollected tax; and (b) the actual amount of the uncollected tax. (6) Notwithstanding the provisions of this section, motor vehicle tax shall not be payable in respect of an ambulance, or a motor vehicle owned by the national government, county	and internal combustion engine vehicles.		trailers & lorries used for commercial purposes have to pay Kshs. 1,500 per ton load capacity per year or Kshs. 2,400 per year whichever is higher while saloons, station wagons, mini-buses and coaches, Kshs. 60 per passenger capacity per month or Kshs.2,400 per year whichever is higher The imposition of this tax further creates inequality especially due to the minimum and maximum limits for the payment of the tax. For instance motor vehicles which are valued below Kshs. 150,000 have to pay a minimum of Kshs 5,000 which is Kshs. 1,250 more than the 2.5% value of their car (Kshs 3,750) while cars above 4 million will pay a maximum of 100,000 Kshs enjoying a tax relief.

	government, Kenya Defence Forces, National Police Service, National Intelligence Service or a person exempt from tax under the Privileges and Immunities Act.			Moreover, the tax measure does not clearly outline who has the responsibility of valuing the motor vehicle and how many times one is required to pay the tax if they acquire multiple insurance covers in a year. This tax is likely to result in lower insurance payment compliance for motor vehicle owners, the majority of whom can only afford third-party insurance. In addition, as the tax is payable at the point of applying for insurance, it is likely to affect insurance absorption in Kenya, which is already low (3%).
	Amendment of section 2 of Cap.470. 2. Section 2 of the Income Tax Act is amended	The proposed definition broadens the scope of “digital content monetization,” thus broadening the tax base; this will help Kenya cope with the changes in Kenya’s growing	Accept this proposal	However, new digital platforms, which are still in their infancy and may need help achieving profitability, must be supported. If burdened by additional tax obligations, this could slow down the overall pace of digital

	(I) by inserting the following new definitions in proper alphabetical sequence- "donation" means a benefit in money in any form, promissory note, or a benefit in kind conferred on a person without any consideration;	digital content creation industry.		transformation and economic diversification. Therefore, while expanding the tax base is essential for revenue generation, it is crucial to consider measures that protect and promote the growth of youth-led and digital enterprises.
	Amendment of section 5 of Cap 470. 6. Section 5 of the Income Tax Act is amended- (a) in subsection (2)- (i) in paragraph (a) (iii), by deleting the words "the first two thousand shillings" and substituting therefor the words "and the employer has a policy on the payment and accounting for subsistence, traveling, entertainment or other allowances, an amount	The Bill seeks to increase the non-taxable benefits of employment as follows: (a) increase the limit on how much money an employee can get each day for expenses while working away from their usual place. Employers would need to have a policy about how they pay for things like meals, travel, and entertainment, and this policy shouldn't let them pay more than 5% of the employee's monthly earnings. The current non-taxable daily allowance is	Accept the proposal with amendments to the per diem rates.	There is, however, a need to adopt a more equitable approach in the raising of tax exemptions for per diems , for instance, by raising the absolute amount rather than introducing a rate.

	not exceeding five per cent of the monthly gross earnings of the employee"; (ii) in paragraph (b), by deleting the words "thirty-six thousand shillings" and substituting therefor the words "forty-eight thousand shillings"; (b) in subsection (4)- (i) in paragraph (f), by deleting the words "forty-eight thousand shillings" and substituting therefor the word "sixty thousand shillings"; (ii) in paragraph (g), by deleting the words "two hundred and forty thousand shillings" appearing in paragraph (a) of the proviso and substituting therefore the words "three hundred and sixty thousand shillings".	capped at two thousand shillings. This measure is however inequitable as persons who earn a lower income will be required to pay more for per diems received. For instance, a person who earns Kshs. 30,000 will have to pay tax on per diems exceeding Kshs.1,500 while one earning Kshs. 100,000 will pay per diems exceeding Kshs. 5,000. (b) Increase the non-taxable benefits of employees from thirty-six thousand shillings to forty-eight thousand shillings. c) increase the value of meals provided to employees in a canteen or cafeteria run by the employer from forty-eight thousand shillings to sixty thousand shillings		

	Amendment of section 5 of Cap.470 (b) subsection (4)— (ii)by inserting the following new paragraph immediately after paragraph (f)– (fa) any amount paid or granted to a public officer to reimburse an expenditure incurred for the purpose of performing official duties, notwithstanding the ownership or control of any assets purchased;	Proposal to introduce a new provision that any amount paid or granted to a public officer to reimburse them for an expenditure incurred for the purpose of performing official duties, notwithstanding the ownership or control of any assets purchased, is not a gain or profit for purposes of income from employment. This will apply even where the purchased assets are personally owned by public officers provided that the assets are for official use.	Reject the proposal in its entirety.	This will be open to abuse since public officers can be reimbursed for assets purchased for performing official duties, irrespective of who owns and controls said assets.
	Amendment of section 15 of Cap.470.	The proposal makes contributions to the Social Health Insurance Fund, post-retirement medical fund, and the affordable housing levy	Accept this proposal in its entirety.	This is seen as a positive step because it provides more advantages to taxpayers, allowing them to fully enjoy the

	10. Section 15 of the Income Tax Act is amended- iii)by adding the following new paragraphs immediately after paragraph (ab)- (ac) contributions made to the Social Health Insurance Fund by section 27(a) and (b) of the Social Health Insurance Act, 2023; (ad) in the case of an employee, the amount deducted in accordance with section 5(1)(a) of the Affordable Housing Act,2024; (ae) a contribution to a post-retirement medical fund subject to a limit of ten thousand shillings per month;	will be eligible for tax exemption. The Bill suggests adding the following expenses to be considered allowable when calculating a person's taxable income: (a)Contributions made by every Kenyan household and non-Kenyan resident living in Kenya for more than twelve months to the Social Health Insurance Fund. (b) An employer's deduction for employees is in accordance with the Affordable Housing Act of 2024. (c)Contributions to a post-retirement medical fund, with a monthly limit of ten thousand shillings.		tax advantages of their contributions.
	Amendment of the First Schedule to Cap 470		Accept the proposal in its entirety.	Progressive as it: (a) It clarifies premature withdrawals from retirement

	(d) by deleting paragraph 53 and substituting therefore the following new paragraph- 53. Payment of pension benefits from a registered pension fund, registered provident fund, registered individual retirement fund or National Social Security Fund upon attainment of the retirement age determined in accordance with the rules of the .fund: Provided that this exemption shall also apply where a person- (a) retires prior to attaining the retirement age due to ill health; or (b) withdraws from the fund after twenty years from the date of registration as a member of the fund. (e) by deleting paragraph 57 that reads as follows-			schemes by setting conditions for exemptions, such as requiring withdrawals to occur at least twenty years after the member's registration date. (b) Supports early pension in case of ill health. Onboarding family trust in the tax bracket is progressive because: (a) It broadens the tax base and, in turn, increases tax revenues.

	57. The income or principal sum of a registered family trust. (f) by deleting paragraph 57 that reads as follows- 57. The income of the National Housing Development Fund. (g) by deleting paragraph 58 that reads- 58. Any capital gains relating to the transfer of title of immovable property to a family trust.			
	14. Section 22A of the Income Tax Act is amended- (a) in subsection (l)(c)- (i) by deleting the words "two hundred and forty thousand shillings" and substituting therefor the words "three hundred and sixty thousand shillings";	The Bill proposes increasing the limit on employees' contributions to registered pension schemes and provident funds without paying taxes from Ksh 20,000 to Ksh 30,000 a month.	Accept this proposal in its entirety.	This revision is long overdue because the limits set 19 years ago must be adjusted to keep up with inflation and changes in income over the past two decades. It also aligns with the Government's goal of encouraging Kenyans to save more for retirement. This will

	(ii) by deleting the words "twenty thousand shillings" and substituting therefor the words "thirty thousand shillings"; (b) in subsection (2)(c)- (i) by deleting the words "two hundred and forty thousand shillings" and substituting therefor the words "three hundred and sixty thousand shillings"; (ii) by deleting the words "twenty thousand shillings" and substituting therefor the words "thirty thousand shillings"; (c) in subsection (3)(c), by deleting the words "two hundred and forty thousand shillings" and substituting therefore the words "three hundred and sixty thousand shillings".			encourage employees to increase their pension contributions, taking advantage of higher tax-free limits.
	VALUE-ADDED TAX ACT			
	CLAUSE (AS IT IS IN THE BILL)	**ANALYSIS OF IMPLICATIONS**	**PROPOSAL**	**JUSTIFICATION**

	Amendment of section 2 of Cap 476 29. Section 2 of the Value Added Tax Act is amended by inserting the following new definition in proper alphabetical sequence- "tax invoice" includes an electronic tax invoice issued in accordance with section 23A of the Tax Procedures Act.	The proposed amendment aims to synchronize the provisions of the VAT Act with those of the Income Tax Act and the Tax Procedures Act regarding the necessity of issuing electronic tax invoices for transactions.	Accept in its entirety.	
	Amendment of section 12 of Cap. 476 Section 12 of the Value Added Tax Act is amended by inserting the following new subsection immediately after subsection (4)—Amendment of section 12 of Cap. 476. (5) The time of supply for exported goods shall be the time when the registered person is in possession of the required export confirmation documents.		Accept with amendments - align with implementation guidelines of E-TIMS	There is a need to streamline the procedures and the practicability of the set time. For instance, an export confirmation document means an export certificate issued upon the exit of the goods through the border/port.
	Amendment of section 34 of Cap 476 34. Section 34 of the Value Added Tax Act is amended in subsection (1)-	The proposal seeks to increase the VAT registration threshold	Accept the proposal in its entirety.	This will benefit small businesses by reducing compliance burdens and improving cash flow, which is encouraging. It will also

	(a) in paragraph (a), by deleting the words "five million shillings" and substituting therefor the words "eight million shillings"; (b) in paragraph (b), by deleting the words "five million shillings" and substituting, therefore, the words "eight million shillings".	from Ksh. 5 million to Ksh. 8 million.		increase competition dynamics for small businesses within certain sectors.
	Amendment of the First Schedule to Cap, 476 35. The First Schedule to the Value Added Tax Act is amended- (a) in Part I-(i) in Section A (A) in the table- (Aa) by deleting tariff number "8802.30.00" and the corresponding description; (Ab) by deleting tariff number "8802.60.00" and the corresponding description;	The proposal seeks to shift these goods and services from zero-rated to exempt will	Delete the proposal in its entirety.	This will impact the production costs and, consequently, the final costs of these items, as the suppliers will no longer be able to claim input VAT on the supplies and may opt to pass on the irrecoverable VAT costs to the consumers.

	(Ac) by deleting the words "gluten bread"appearing at the end of the table; (Ad) by deleting the words "unleavened bread" appearing at the end of the table;			
	Amendment of the First Schedule to Cap, 476. b) in Part II - (iii) by deleting paragraph 17; (iv) by deleting paragraph 18; (v) by deleting paragraph 21; (vi) by deleting paragraph 26; (vii) by deleting paragraph 27	Proposal affects betting, gaming, and lotteries services	Accept the proposal in entirety.	

	Amendment of the Second Schedule **to Cap 476** 36. The Second Schedule to the Value Added Tax Act is amended in Part A- (a) by deleting paragraph 13A; (b) by deleting paragraph 15; (c) by deleting paragraph 16; (d) by deleting paragraph 19; (e) by deleting paragraph 21; (f) by deleting paragraph 22; (g) by deleting paragraph 26; (h) by deleting paragraph 29; (i) by deleting paragraph 30; (j) by deleting paragraph 31 ; (k) by deleting paragraph 32; (I) by deleting paragraph 33; (m)by deleting paragraph 35.	The proposal seeks to stop the supply of ordinary bread, Milk, and cream, all inputs and raw materials, whether produced locally or imported, supplied to manufacturers of agricultural pest control products from being zero-rated;	Delete the proposal in entirety.	A targeted subsidy regime might be more effective, but in the absence of the administrative structure to deliver this, zero-rating is an appropriate second-best policy. The agriculture sector will be affected; If passed, prices of bread, milk and agricultural products will increase, **denying citizens the right to affordable food**. The proposal that the following items which had been zero-rated for VAT purposes would be subject to VAT at the standard rate, currently, sixteen percent (16%) **takes away the green energy incentives**. • The supply of electric bicycles. • The supply of solar and lithium-ion batteries.

				• The supply of electric buses of tariff heading 87.02.
	EXCISE DUTY ACT			
	CLAUSE(AS IT IS IN THE BILL)	**ANALYSIS OF IMPLICATIONS**	**PROPOSAL**	**JUSTIFICATION**
	Amendment of section 5 of Cap. 472. 38. Section 5 of the Excise Duty Act is amended- (a) in subsection (I), by adding the following new paragraph immediately after paragraph(c) - (d) excisable services offered in Kenya by a nonresident through a digital platform;	The Bill proposes to introduce excise duty on excisable services offered in Kenya by a non-resident through a digital platform.	Accept the proposal in its entirety.	The proposal is progressive because it complements other ways to collect excise duty, broadening tax collection by involving non-residents and ensuring equity. The additional information provides clarity that was lacking in the previous Act. There are high chances that non- residents might restrict access to their digital platforms for residents

	(b) in subsection (3), by adding the following new paragraph immediately after paragraph (c)- (d) under subsection (l)(d), shall be payable by the non-resident person offering the service.			
	39. The Excise Duty Act is amended by repealing section 14.	The Bill proposes to repeal section 14 of the EDA, which allows for the offsetting of excise duty paid in respect of excisable goods imported or manufactured in Kenya by licensed manufacturers which have been used as raw materials for manufacturer of other excisable goods.	Reject this proposal in its entirety.	
	The First Schedule to the Excise Duty Act is amended— Amendment of the First Schedule to Cap. 472. (a) in Part I	This initiative supports locally assembled industries and promotes environmentally sustainable business practices.	Accept the proposal in its entirety.	

	Amendment of section 36 of Cap. 472. Section 36 of the Excise Duty Act is amended in subsection (IA), by deleting the words "twenty-four hours" and substituting therefore the words "five working days".		Accept the proposal in its entirety.	More time for compliance.
	Amendment of section 17 of Cap. 472. 40. Section 17 of the Excise Duty Act is amended by deleting subsection (1) and substituting therefor the following new subsection— (1) Subject to subsection (2), the Commissioner shall, within fourteen days of receipt of all the required valid documents, consider an application made under section 16 and grant or refuse to grant a license to the applicant.	The proposal introduces a definitive timeline instead of the previous derangement.	Accept this proposal in its entirety.	
	Amendment of the First Schedule to Cap 472	(i) Increases telephone and internet costs negatively affecting the digital economy	Delete this proposal in its entirety.	Digital and bank transactions have become so central to the daily operations of people that

	(b) in Part II- (i) in paragraph 1, by deleting the words "fifteen percent" and substituting therefor the words "twenty percent"; *(Telephone, internet)* (ii) in paragraph 2, by deleting the words "fifteen percent" and substituting therefor the words "twenty percent"; (*Money Transfers and financial agencies)* (iii) in paragraph 3, by deleting the words "fifteen percent" and substituting therefor the words "twenty percent"; (*Money Transfer by Mobile phones)* (iv) in paragraph 4A, by deleting the words "twelve-point five percent" and substituting therefor the words "twenty percent"; (*Betting and gambling)*	(ii) Increases transaction costs which will increase physical transaction and reduce digital transactions (iii) Increases transaction costs which will increase physical transaction and reduce digital transactions (vii 4D) Increased cost will be a deterrent from participating in lottery (viii) The paragraph 8 cannot be found ?? Increases from 5% to 7.5%		they barely operate in cash. An increase in transaction costs would translate to a significant reduction in their income. In addition, the tax revenue from this source will likely decrease as citizens will gradually transact less.

	(v) in paragraph 4B, by deleting the words"twelve-point five percent" and substituting therefor the words "twenty percent"; (*Gaming)* (vi) in paragraph 4C, by deleting the words "twelve-point five percent" and substituting therefor the words "twenty percent"; (*Price competition)* (vii) in paragraph 4D, by deleting the words "twelve-point five percent" and substituting therefor the words "twenty percent"; (*Lottery)* (viii) in paragraph 8, by inserting the words "the internet, social media" immediately after the words "advertisement on".			
	MISCELLANEOUS FEES AND LEVIES			
	Amendment of section 7 A of Cap 469C. The Miscellaneous Fees and Levies Act is amended in section 7 – (a) by deleting the	The proposal seeks to increase in the Import Declaration Fee (IDF) from 2.5 percent to three percent	Reject the proposal in its entirety.	This is an effort by the government to better resource KRA partly because KRA's budget has mostly been below 2

	words "two point five" appearing in subsection (2) and substituting therefor the word "three"; (b) by deleting subsection (7) and substituting therefor the following new sub-section— (7) Ten percent of monies in the Fund under subsection (6) shall be used for the payment of Kenya's contributions to the African Union and any other international organization to which Kenya has a financial obligation, while twenty percent will be used for revenue enforcement initiatives or programmes.			percent of the revenue it collects.
	Insertion of new section 7B in Cap. 469C. 45. The Miscellaneous Fees and Levies Act is amended by inserting the following new section immediately after section 7A— Eco levy. 7B. (1) There shall be paid a levy to be known as the eco levy on the goods specified in the Fourth Schedule manufactured in Kenya or imported into Kenya. (2) The eco levy shall be paid to the Commissioner at the rate specified in the Fourth Schedule—	The Bill proposes to introduce a new levy known as the Eco levy, which will apply to certain goods manufactured in Kenya or imported into Kenya and will be paid by the manufacturer and the importer, respectively. Includes items such as telephones, rubber tyres, monitors, microphones, batteries, plastic packing materials and diapers	Delete this proposal in its entirety.	The proposal propagates climate injustice where Kenya is being forced to carry the burden of the heavy polluters. It targets the wrong category of citizens (the vulnerable) Essential items such as smartphones used by the youth in content creation and diapers whose cost is borne by women should be exempted from the levy.

	(a)in the case of locally manufactured goods, by the manufacturer at the time the goods are removed from the excise stock room; and (b)in the case of imported goods, by the importer at the time of entering the goods into the country. (3) The purpose of the levy shall be to ensure that the manufacturers and importers of the goods specified in the Fourth Schedule pay for the negative environmental impacts of the goods. (4) The Cabinet Secretary may make Regulations for the better implementation of the provisions of this section.			
	Amendment of section 52 Cap. 411C. 63. Section 51(2) of the Data Protection Act is amended by inserting the following new paragraph immediately after paragraph (b)—	The proposal seeks to amend the Data Protection Act to exempt KRA from constraints in access to personal data where access to that data is deemed to be necessary for the assessment, enforcement or collection of any tax or duty under a written tax law.	Delete this proposal in its entirety.	While this proposal aims to grant powers to access information necessary for the assessment, enforcement or collection of any tax or duty under a written tax law, it is wide sweeping and violates the right to privacy and does not comply with Article 24(2) of the Constitution of Kenya, 2010 as pertains to legislation that limits

	(ba) disclosure is necessary for the assessment, enforcement or collection of any tax or duty under a written tax law.			rights or fundamental freedoms. In addition, it does not specify the party that has the right to access such data.
	Amendment of the Third Schedule to Cap. 469C. The Miscellaneous Fees and Levies Act is amended by deleting the Third Schedule and substituting therefor the following new Schedule THIRD SCHEDULE(s. 7A (1), (2)) GOODS SUBJECT TO EXPORT AND INVESTMENT PROMOTION LEVY	The Bill proposes to introduce Export Promotion Levy on the following products and goods: Articles of leather, Imported footwear, Milk and cream of a fat content by weight, exceeding 1 % but not exceeding 6%, Cooking stoves for liquid fuel, Motorcycles, Electric motorcycles, wooden and metallic furniture,	Accept the proposal in its entirety.	

	TAX PROCEDURES			
	Amendment of section 51 of Cap 469B. Section 51 of the Tax Procedures Act is amended- (a) in subsection (4A), by deleting the words "the Commissioner may make an objection decision within sixty days after the date on which the notice of objection was lodged" and substituting therefore the new words "the objection shall be deemed disallowed"; (b) in subsection (11), by deleting the words "sixty days" and substituting therefore the words "ninety days".	This provision will apply when it is impossible to recover unpaid taxes, it is too difficult and expensive to recover unpaid taxes, where recovery results in inequity, and any other reason.	Delete the proposal in its entirety.	The proposal is likely to breach the equity principle in taxation as only the rich tend to benefit from such provisions. If adopted, will exert undue pressure on taxpayers and may compromise access to justice. This proposal would result in a significant hindrance to the expeditious resolution of tax disputes.
	Insertion of new section into Cap.469B.	The Bill proposes to confer the KRA with the powers to refrain from assessing or	Reject the proposal in entirety	The proposal is likely to breach the equity principle in taxation

	52. The Tax Procedure Act is amended by inserting the following new section immediately after section 37D— 37E (1) This section applies where the Commissioner determines that— (a)it may be impossible to recover an unpaid tax; (b)there is undue difficulty or expense in the recovery of an unpaid tax; (c) there is hardship or inequity in relation to the recovery of an unpaid tax; or (d) there is any other reason occasioning inability to recover the unpaid tax. (2) Despite the provision of any tax law, the Commissioner may, with the prior written approval of the Cabinet Secretary, refrain from assessing or recovering an unpaid tax and the liability in relation to the tax shall be deemed to be extinguished or the tax shall be	recovering an unpaid tax, with the prior written approval of the Cabinet Secretary, if it is determined that it may be difficult to recover such taxes.		as only the rich tend to benefit from such provisions.

	deemed to be abandoned or remitted, as the case may be. (3) In any case referred to the Cabinet Secretary under subsection (1) and where appropriate, the Cabinet Secretary may direct the Commissioner in writing— (a) to take such action as the Cabinet Secretary may deem fit; or (b) to obtain the directions of the court in relation to the case. (4) The Commissioner shall submit a report to the Cabinet Secretary on or before the 30th June and on or before the 31st December of each year containing the details and amounts of taxes abandoned under this section. (5) The Cabinet Secretary shall submit			

	to the National Assembly the report under subsection on or before 30th March of the succeeding year.			
	Amendment of section 59A of Cap 469B Section 59A of the Tax Procedures Act is amended- (a) by inserting the following new subsection immediately after subsection (I) (IA) The Commissioner may, by notice in writing, require a person to integrate the electronic tax system authorized under section 75 to the system referred in subsection (1) for the purposes of submission of electronic documents including detailed transactional data in a prescribed manner.	The proposal introduces a penalty for failure to comply with e-TIMS integration after a notice from the Commissioner not exceeding Ksh. 2 million monthly	Accept the proposal with amendments and a revision to reduce the penalty.	While it is a good cause, failure to comply with this requirement will see the taxpayers slapped with a monthly penalty not exceeding Kes 2 Million. This proposal will mainly target and hurt small businesses since large businesses are already integrated with KRA systems.

	(b) by adding the following new subsections immediately after subsection (4)- (5) A person who fails to comply with the notice referred to in subsection (1A) commits an offense and shall be liable, on conviction, to a penalty not exceeding two million shillings for every month or part thereof that the failure continues. (6) A person who fails to comply with the notice referred to in subsection (2) commits an offense and shall be liable, on conviction, to a penalty not exceeding two million shillings for every month or part thereof that the failure continues.			
	Repeal and replacement of section 77 to Cap 469B. 55. The Tax Procedures Act is amended by repealing section 77 and replacing it with the	This sets out the period between Monday and Friday, to the exclusion of weekends and public holidays, for meeting tax obligations such as lodging a tax return or making a tax payment.	Accept the proposal in entirety.	This is a positive change, given that the Tax Procedures Act is matching up with the Interpretation and General Provisions Act when computing time for the purposes of a written law. This means that

	following new section immediately section 77- 77. In computing the period for- (a) submitting or lodging a tax return, application, notice, or other document; (b) the payment of a tax; or (c) taking any other action under a tax law, the period shall not include Saturdays, Sundays or public holidays.			under tax laws, time will be computed based on business days instead of calendar days.

The undersigned Okoa Uchumi Campaign Members

1. ActionAid International Kenya
2. Active Citizen Initiative Africa
3. AFCORN Advisory
4. African Forum and Network on Debt and Development (AFRODAD)
5. Amnesty International Kenya
6. Bunge Mashinani School of Governance
7. Centre for Fiscal Affairs
8. Centre For Livelihood Africa (CFLA)
9. Christian Aid Kenya

10. Community Advocacy and Awareness Trust (CRAWN Trust)
11. EACHRights
12. East Africa Tax and Governance Network
13. Fight Inequality Alliance Kenya
14. Foster Green Organization
15. Future Now
16. Ikokay
17. Institute of Public Finance
18. International Budget Partnership Kenya (IBPK)
19. Inua Mama Mjane
20. Inuka Kenya Ni Sisi!
21. Kabete CBO for PWDs.
22. Kadibo Community Social Justice Centre
23. Katiba Institute
24. Kawangware Youth Paralegal Trust (KAYPAT)
25. Kenya Human Rights Commission (KHRC)
26. Kenya National Interface Team (KNIT)
27. Kiengu Women Chalenge to Challenge
28. KISANet (Kiambu Social Accountability Network)
29. Maisha Youth
30. Mount Kenya Professionals Forum (MKPF)
31. Muslims For Human Rights (MUHURI)
32. National Democratic Institute
33. National Taxpayers Association (NTA)
34. Okoa Mombasa
35. Oxfam Kenya
36. Pawa254
37. REMUSI Housing
38. Social Justice Centers
39. The Hummingbird Grassroot Kenya
40. The Institute for Social Accountability (TISA)
41. The Kenyan Section of the International Commission of Jurists (ICJ Kenya)
42. The National Students’ Caucus

43. Transparency International Kenya (TI-Kenya)
44. Twaweza East Africa
45. UTUNET Africa Foundation
46. YWAN – KENYA