

THE FINANCE ACT, 1975

No. 2 of 1975

Date of Assent: 27th February, 1975

Date of Commencement: Section 4—18th June, 1971

Section 5 (i) and (m)—

1st January, 1974

Sections 2, 3, 6, 7 and 5 (e), (h)

and (k)—13th June, 1974

The rest—7th March, 1975

An Act of Parliament to amend the laws relating to various taxes and duties and for matters incidental thereto

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

1. (1) This Act may be cited as the Finance Act, 1975. Short title and commencement.
- (2) The amendments effected by—
- (a) section 4 of this Act shall have effect notwithstanding any of the provisions of the East African Income Tax Management Act and be deemed to have come into operation on 18th June, 1971; E.A. Cap. 24.
- (b) paragraphs (i) and (m) of section 5 of this Act shall be deemed to have come into operation on 1st January, 1974;
- (c) sections 2, 3, 6 and 7, and paragraphs (e), (h) and (k) of section 5, of this Act shall have effect from 13th June, 1974;
- (d) paragraphs (a) (b) (c) (d) (f) (g) (j) (l) and (n) of section 5 of this Act shall have effect in relation to the year of income 1974 and, subject to amendment, to subsequent years of income,
- all dates inclusive.

PART II—BETTING TAX

2. The Betting, Lotteries and Gaming Act is hereby amended, in section 30, by the deletion, from paragraphs (a) and (b) respectively of subsection (1), of the words “five per centum” and the substitution therefor of the words “seven and one half per centum” respectively. Amendment of section 30 of Cap. 131.

PART III—EXCISE TARIFF

Amendment of
Schedule to
Cap. 474.

3. The Schedule to the Excise Tariff Act is hereby amended by the deletion of items 1, 4 and 5 and the substitution therefor of the following—

Item	Goods	Quantity	Rate of Duty
			<i>Sh. cts.</i>
1. Beer:			
	(a) Not made from malt	Per litre	Free
	(b) Stout	Per litre	2 25
	(c) Other:		
	(i) of an original gravity not exceeding 1060°	Per litre	1 50
	(ii) of an original gravity exceeding 1060°	Per litre	2 25
4. Cigarettes:			
	Where the ex-factory selling price per thousand cigarettes exclusive of sales tax and excise duty—		
	(i) does not exceed Sh. 37/50	90%	} of the ex-factory selling price exclusive of sales tax and excise duty
	(ii) exceeds Sh. 37/50 but does not exceed Sh. 50	100%	
	(iii) exceeds Sh. 50	105%	
5. Manufactured tobacco, other than tobacco made up by the grower without the use of machinery, ready for smoking in tobacco pipes.			80% } of the ex-factory selling price exclusive of sales tax and excise duty

PART IV—INCOME TAX

Amendment of
E.A. Cap. 24.

4. The East African Income Tax Management Act, in its application to the Republic of Kenya, is hereby amended—

(a) in subsection (1) of section 2, by the deletion from the definition “*emoluments*” of the section numbers “105” and “113A”;

(b) in subsection (4) of section 113A, by the insertion, immediately after the definition “*continuously resident in Kenya*”, of the definition—

“*emoluments*” means—

(a) any gains or profits from any employment, including directors’ fees, payable in money by an employer to an employee;

- (b) any gains or profits which consist of the value of premises in accordance with section 5 (1) (b) (v);
- (c) in the case of any individual resident in the Partner States, any pension;
- (d) in the case of any individual not resident in the Partner States, any pension paid by, or out of funds created by, the Partner States;
- (e) any amount received under an approved pension scheme or an approved pension fund in respect of the refund of any contributions made to such scheme or fund, and any amount received in respect of employers' contributions and interest under any other pension scheme or fund or provident fund,

except that "emoluments" shall not include any such gains or profits which are, in the opinion of the Commissioner-General, in respect of casual employment only.

5. The Income Tax Act, 1973, is hereby amended—

Amendment of
No. 16 of 1973.

- (a) in subsection (2) of section 7, by the deletion from paragraph (a) of the words "twenty-five per cent" and the substitution therefor of the words "twelve and one-half per cent";
- (b) in section 8—
 - (i) in subsection (3) by the deletion of paragraph (b) and the substitution therefor of the following new paragraph—
 - (b) if received by a non-resident individual if the person making payment of the pension was resident in Kenya.;
 - (ii) by the deletion of subsection (5);
- (c) in subsection (2) of section 15, by the deletion of paragraph (q) and the substitution therefor of the following new paragraph—
 - (q) in the case of an individual who carries on, otherwise than as an employee, whether alone or in partnership, one of the professions, and who possesses the relevant qualifications, mentioned in the Fifth Schedule, a housing deduction equal to

fifteen per cent of the gains or profits from his profession or fourteen thousand shillings, whichever is the less:

Provided that, in the case of any such individual who receives income from any employment and who also occupies, for residential purposes, premises provided by his employer, the housing deduction under this paragraph shall be reduced or extinguished, as the case may be, by the value of such premises.;

(d) in section 34—

(i) in subsection (2), by the deletion of the words “shall be charged for any year of income at the appropriate non-resident rate for such year of income” and the substitution therefor of the words “shall be charged at the appropriate non-resident rate in force at the date of payment of such income”;

(ii) in subsection (3), by the deletion of the words “shall be charged for any year of income at the appropriate inter-state rate for such year of income” and the substitution therefor of the words “shall be charged at the appropriate inter-state rate in force at the date of payment of such income”;

(e) in subsection (3) of section 35, by the deletion from the proviso thereto of the words “four hundred shillings” and “three hundred shillings” and the substitution therefor of the words “two hundred shillings in the year” and “one hundred and fifty shillings in the year” respectively;

(f) in subsection (1) of section 53, by the deletion of the proviso thereto and the substitution of the following new proviso—

Provided that an employee shall not be required to furnish such a return—

(a) if to the best of his knowledge and belief he will have no income chargeable to tax for such year of income other than from emoluments; and

(b) if he has reasonable grounds to believe that the whole of the tax payable by him in respect of such emoluments will be recovered by deduction under section 37 of this Act;

(g) in subsection (2) of section 92—

(i) by the deletion from subparagraph (ii) of paragraph (a) of the comma and words “, or on or before 30th June in such following year, whichever is the later”;

(ii) by the insertion, at the end of paragraph (a), of a proviso to that paragraph as follows—

Provided that where a return of income has been furnished in accordance with section 52 of this Act, one half of such tax shall be due and payable within thirty days of the date of service of notice of such assessment and the other half on or before the date of expiry of a period of four months from that date.;

(h) in subsection (4) of section 133, by the insertion, immediately after the words “and previous years of income”, of the words “and the Income Tax (Allowances and Rates) (No. 2) Act, 1971, shall be read and construed as if, when enacted, the Second Schedule thereto contained the following additional paragraph—

3. The non-resident tax rates shall be the rates set forth in paragraph 1 of the Third Schedule to this Act and for the purposes of this paragraph such rates shall be charged from 18th June, 1971.”;

(i) in the Second Schedule—

(i) by the deletion of paragraph 24 and the substitution therefor of the following new paragraph—

Buildings
and
machinery. 24. (1) Subject to this Schedule,
where capital expenditure is incurred—

(a) on the construction of a building and on the purchase and installation therein of new

- machinery, and the owner of such machinery, being also the owner or a lessee of that building, uses that machinery in that building for the purposes of manufacture; or
- (b) on the purchase and installation of new machinery in any part of a building other than a building or any such part previously used for the purposes of manufacture, and—
- (i) the owner of such new machinery subsequently uses that machinery in that building for the purposes of manufacture, and
- (ii) such machinery has not been installed substantially in replacement of machinery previously in use in an existing business carried on by the owner of such new machinery; or
- (c) on the construction of an hotel building which is certified as an industrial building under paragraph 5 (1) (c) of this Schedule,

there shall be deducted, in computing the gains or profits of the person incurring such expenditure for the year of income in which there was first used either, both the building and machinery referred to in subparagraph (a), or both the machinery and, for the purposes of manufacture, the part of the building in which such machinery has been installed referred

to in subparagraph (b), or the building referred to in subparagraph (c), as the case may be, a deduction (referred to as an investment deduction) equal to twenty per cent of such capital expenditure.

(2) For the purposes of this paragraph—

(a) where, under subparagraph (a) of paragraph 24 (1), a building is used partly for the purposes of manufacture and partly for other purposes, the capital expenditure on which the deduction in respect of the building is calculated shall be the capital expenditure attributable to that portion of the building which is used for the purposes of manufacture:

Provided that where the capital expenditure so attributable exceeds nine-tenths of the total capital expenditure incurred on the construction of the building the whole building shall be treated as used for the purposes of manufacture;

(b) where an existing building is extended by further construction, the extension shall be treated as a separate building;

(c) capital expenditure incurred on the construction of a building does not include any capital expenditure on the acquisition of, or of rights in or over, any land;

(d) "building" includes any building structure;

“installation” means affixing to the fabric of a building in a manner necessary for and appropriate to the proper operation of the machinery concerned;

“manufacture” means the making (including packaging) of goods or materials from raw or partly manufactured materials or other goods, but does not extend to any activities whatsoever which are ancillary to manufacture, such as design, storage, transport or administration;

“new” means not having previously been used by any person, or acquired or held (other than by a supplier in the normal course of trade) by any person for use by the person incurring expenditure under this paragraph.

- (ii) in paragraph 26, by the deletion of the words “an industrial building to which paragraph 24” and the substitution therefor of the words “a building to which subparagraph (a) or (c) of paragraph 24 (1)”;
- (iii) in paragraph 32, by the deletion from subparagraph (1) of the definition “approved business”;
- (j) in the Third Schedule, by the deletion, from HEAD B—RATES OF TAX, of paragraph 2 and the substitution therefor of the following new paragraph—
 - 2. The corporation rate of tax applicable to income for the year of income 1974 and for each subsequent year of income shall be nine shillings in each twenty shillings save in the case of—
 - (a) the total income of a non-resident company having a permanent establishment in Kenya

when the rate shall be ten shillings and fifty cents in each twenty shillings; and

- (b) that part of the total income of a company which relates to income derived from the mining of specified minerals when the rate shall be five shillings and fifty cents in respect of each twenty shillings of such part of the total income:

Provided that the rate shall be nine shillings in each twenty shillings of such part of the total income from the fifth year, and in each subsequent year, after the first year in which such company is liable or would, but for the provisions of subsection (4) of section 15 of this Act, become liable to pay corporation tax; and

- (c) that part of the chargeable income of a resident insurance company which relates to its life insurance business when the rate shall be eight shillings in each twenty shillings of such chargeable income.;

(k) in the Third Schedule, in HEAD B—RATES OF TAX—

(a) in paragraph 3—

- (i) by the deletion from subparagraph (d) of the words “twelve and one-half per cent” and the substitution therefor of the words “fifteen per cent”;
- (ii) by the deletion from subparagraph (f) of the words “twelve and one-half per cent” and the substitution therefor of the words “five per cent”;

(b) in paragraph 4—

- (i) by the deletion from subparagraph (d) of the words “twelve and one-half per cent” and the substitution therefor of the words “fifteen per cent”;
- (ii) by the deletion from subparagraph (f) of the words “twelve and one-half per cent” and the substitution therefor of the words “five per cent”;

- (c) in paragraph 5, by the deletion from subparagraph (a) of the words “twelve and one-half per cent” and the substitution therefor of the words “fifteen per cent”;
- (l) in the Fifth Schedule, by the deletion of the column headings “*Qualifications*” and “*Profession*” and the substitution therefor of the column headings “*Profession*” and “*Qualifications*” respectively;
- (m) in the Sixth Schedule—
- (i) by the deletion of subparagraph (b) of paragraph 7;
- (ii) by the insertion, immediately after paragraph 10, of the following new paragraph—

11. Where, after the commencement of this Act, any payment is made in respect of the refund or return of contributions made or premiums paid, prior to the commencement of this Act, under an approved pension scheme, approved pension fund, approved annuity contract, approved trust scheme or approved provident fund mentioned in subsections (1), (2), (3) and (4) of section 8 of the Management Act, such payment shall in the manner and to the extent provided in those subsections, and in paragraph (c) of section 3, of the Management Act, be deemed to be income charged to tax under paragraph (e) of subsection (2) of section 3 of this Act:

Provided that—

- (a) references in subsection (2) of the said section 8 to “any year of income” shall be construed as meaning any year of income prior to the commencement of this Act; and
- (b) references in subsection (2) of the said section 8 to “the year of income” and “the relevant year of income” shall be construed as references to the year ending 31st December, 1974; and
- (c) in subsection (2) of the said section 8 the proviso thereto shall be read and

construed as if the following words were deleted, namely—

- (i) “which expired earlier than the year of income (hereinafter referred to as the relevant year of income) prior to the year of income—
 - (i) in which it was received; or
 - (ii) in the case of a policy, in which the policy was assigned or transferred; or
 - (iii) in which the employee left the service of the employer; or
 - (iv) in which the person died, whichever is the earliest,”; and
- (ii) “in excess of one year of the period”;

(d) subsections (3) and (4) of the said section 8 shall apply only in respect of contributions made, or in the case of paragraph (a) of subsection (4) thereof in respect of any pension right accrued, prior to the commencement of this Act.;

(n) in the Seventh Schedule—

- (i) in paragraph 1, by the deletion of the definition “Community emoluments”;
- (ii) in paragraph 3, by the insertion immediately after the words “for the purposes of Part V of this Act” of the words “but not for any other purposes of this Act.”;
- (iii) by the deletion of paragraphs 4 and 5.

PART V—CUSTOMS TARIFF

6. (1) The First Schedule to the Customs Tariff Act, 1970 (hereinafter referred to as the Customs Act) is hereby amended, in relation to the tariff numbers and sub-headings specified in the first column of the First Schedule to this Act and relating to the articles respectively specified in the second column of the First Schedule to this Act, in the manner specified in the third column of the First Schedule to this Act.

Amendments to
the First and
Third Schedules
to No. 8 of 1970.

(2) The First Schedule to the Customs Act is hereby further amended—

(a) by substituting for Tariff Number 22.09 (which relates to spirits) the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
22.09 ..	Spirits (other than those of heading No. 22.08); liqueurs, and other spirituous beverages; compound alcoholic preparations (known as "concentrated extracts") for the manufacture of beverages:			
	A. Spirits (other than those of heading No. 22.08), for example, vodka, whisky, rum, gin, geneva and concentrates of such spirits.	Per proof litre Sh. 48	Free	Free
	B. Brandy	Per proof litre Sh. 46/90	Per proof litre Sh. 1/10	Free
	C. Liqueurs and other spirituous beverages and "concentrated extracts".	Per proof litre Sh. 44	Free	Free

(b) by the deletion of paragraph (d) in Note 2 to Chapter 30;

(c) by the insertion, immediately after Note 4, of the following new Note—

5. Heading No. 30.03 is to be taken as not applying to preparations for the care of the skin consisting basically of talc powder with pharmaceutical substances added, provided that they retain the character of toilet preparations of Heading No. 33.06.;

(d) by substituting for Tariff Number 32.07 (which relates to other colouring matters, etc.) the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
32.07 ..	Other colouring matter; inorganic products of a kind used as luminophores:			
	A. Laundry blue	40%	Free	Free
	B. Other	Free	Free	Free

(e) in Tariff Number 57.01/04 (which relates to True hemp (*Cannabis sativa*), Manila hemp (*abaca*) (*Musa textilis*), jute, etc.), by substituting for sub-heading A the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
57.01/04	A. Fibres of jute and natural substitutes of jute.	Free	Free	Free

(f) by substituting for Tariff Number 67.04 (which relates to wigs, false beards, etc.), the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
67.04 ..	Wigs, false beards, eyebrows and eyelashes, switches and the like, of human or animal hair or of textiles; other articles of human hair (including hair nets).	30%	Free	Free

(g) in Tariff Number 73.40 (which relates to other articles of iron or steel), by substituting for sub-heading D the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
73.40 ..	D. Balls or pieces for use in grinding and crushing mills.	Free	Free	Free

(h) in Tariff Number 76.03 (which relates to wrought plates, sheets and strip, of aluminium), by substituting for sub-heading B the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
76.03 ..	B. Flat, including coils, of a thickness less than 7 mm.	33½%	Free	Free

(i) by substituting for Tariff Number 85.20 (which relates to electric filament lamps, etc.), the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
85.20 ..	Electric filament lamps and electric discharge lamps (including infra-red and ultra-violet lamps); arc lamps:			
	A. Filament lamps designed to operate on voltages of 100 to 250 volts, of 200 watts or less, but not including tubular, miniature or coloured indicator lamps.	*30% (or, if the specific suspended fiscal entry is chargeable, free)	Free	Free
	B. Other	30%	Free	Free

(j) by substituting for Tariff Number 90.07 (which relates to photographic cameras; photographic flash-light apparatus), the following—

Tariff No.	Tariff Heading	Fiscal Entry	Import Duty	
			Full	E.E.C.
90.07 ..	Photographic cameras; photographic flash-light apparatus and flash-bulbs other than discharge lamps of heading No. 85.20:			
	A. Cameras, specialized for medical use; survey cameras; lithographic process cameras.	Free	Free	Free
	B. Other	35%	5%	Free

(3) The Third Schedule to the Customs Act is hereby amended by the deletion of item 6 of Part A.

PART VI—SALES TAX

7. The Sales Tax Act, 1973, is hereby amended—

(a) in subsection (1) of section 2, by the deletion, from paragraphs (a) and (b) respectively of the definition “manufacturer”, of the word “taxable”;

(b) in section 4, by the deletion of paragraph (c) and the substitution therefor of the following—

(c) acquired by a registered manufacturer in accordance with the provisions of section 24 of this Act and disposed of by him otherwise than as materials in the manufacture of goods;

(c) in section 8, by the deletion of subsection (1) and the substitution therefor of the following—

(1) Subject to section 9 of this Act, every manufacturer who has, in the course of his business as such, manufactured in any one year goods having a total value of not less than one hundred thousand shillings, shall apply in the prescribed manner to the Commissioner to be registered as a registered manufacturer.;

(d) in section 24, by the deletion of the expression “taxable goods for sale” and the substitution therefor of the expression “manufactured goods for sale”;

(e) by the deletion of Part II of the First Schedule and the substitution therefor of a new Part in the form contained in the Second Schedule to this Act;

(f) by the deletion from the Second Schedule thereto of sub-heading G of Tariff Number 27.10.

FIRST SCHEDULE

(s. 6 (1))

<i>Tariff No.</i>	<i>Relating to</i>	<i>Amendment</i>
02.01 ..	Meat, etc.	for “50%” substitute “25%”.
02.02 ..	Dead poultry, etc.	for “50%” substitute “25%”.
02.03 ..	Poultry, liver, etc.	for “50%” substitute “25%”.
02.04 ..	Other meat, etc.	for “50%” substitute “25%”.
02.05 ..	Pig fat	for “50%” substitute “25%”.
02.06 ..	Meat offals, etc.	for “50%” substitute “25%”.
03.01 ..	Fresh fish	for “50%” substitute “25%”.
03.02 ..	Dried fish, etc.	for “50%” substitute “25%”.
03.03 ..	Crustaceans and molluscs, etc.	for “50%” substitute “25%”.
04.01A	Fresh cream	for “50%” substitute “25%”.
04.01B	Other fresh milk and cream	for “50%” substitute “25%”.
04.02B	Cream, preserved, etc.	for “Per kg. Sh. 2/65 or 50%” substitute “25%”.
04.02C	Other preserved milk, etc.	for “Per 100 kg. Sh. 83/25 or 50%” substitute “25%”.
04.03A	Ghee	for “Per kg. Sh. 1/35 or 50%” substitute “25%”.
04.03B	Butter	for “50%” substitute “25%”.
04.04 ..	Cheese and curd	for “50%” substitute “25%”.
04.05 ..	Birds’ eggs, etc.	for “30%” substitute “25%”.
04.06 ..	Natural honey	for “50%” substitute “25%”.
04.07 ..	Other edible products of animal origin.	for “50%” substitute “25%”.

FIRST SCHEDULE—(Contd.)

<i>Tariff No.</i>	<i>Relating to</i>	<i>Amendment</i>
05.04B	Other guts and bladders, etc.	for "50%" substitute "30%"
15.07D	Other fixed vegetable oils..	for "40%" substitute "20%".
15.13 ..	Margarine, etc.	for "Per kg. Sh. 1/35 or 50%" substitute "25%".
27.16 ..	Bituminous mixtures ..	for "30%" substitute "40%".
61.02B	Womens and girls outer garments	for "each Sh. 3/70 or 45%" substitute "each Sh. 6 or 45%".
76.03C	Wrought aluminium circles	for "Per kg. Sh. 3/30" substitute "Per kg. Sh. 3/30 or 33 $\frac{1}{3}$ %".
96.01 ..	Brooms and brushes, etc...	for "33 $\frac{1}{3}$ %" substitute "30%".

SECOND SCHEDULE

(s. 7 (e))

PART II

The articles and goods listed in the Customs Tariff Act, 1970, in relation to the Tariff Numbers specified in column (2) of the following table shall be charged to tax at the rates respectively specified in columns (4) and (5) of the said table.

COLUMN (1)	COLUMN (2)	COLUMN (3)	COLUMN (4)	COLUMN (5)
<i>Item</i>	<i>Tariff No.</i>	<i>Relating to</i>	<i>Quantity</i>	<i>Rate of tax</i>
1.	22.03 ..	Beer made from malt	Per litre ..	Sh. 1.02
2.	22.05 ..	Wine		15%
3.	22.06 ..	Vermouth		15%
4.	22.07 ..	Other fermented beverages ..	} Taxable Value	15%
5.	22.08B	Ethyl alcohol other than denatured spirits		
6.	22.09 ..	Spirits and liqueurs		15%
7.	24.02A	Cigars, cheroots and cigarillos ..	Taxable Value (excluding excise duty)	30%
8.	24.02B	Cigarettes	Taxable Value (excluding excise duty)	30%
9.	24.02D	Other manufactured tobacco ..	Taxable Value (excluding excise duty)	30%
10.	27.10B	Motor spirit	Per thousand litres	Sh. 405
11.	27.10G (1)	Lubricating oil	Per litre	Sh. 0. 35
12.	27.10G (2)	Lubricating grease	Per kilogram	Sh. 0. 60
13.	27.17 ..	Electric current	Per kilowatt hour	Sh. 0.01

SECOND SCHEDULE—(Contd.)

COLUMN (1)	COLUMN (2)	COLUMN (3)	COLUMN (4)	COLUMN (5)
Item	Tariff No.	Relating to	Quantity	Rate of tax
14.	37.01 B	Photographic plates and film ..		15%
15.	42.02 ..	Travel goods		15%
16.	84.15 B	Domestic refrigerators		15%
17.	84.22 ..	Lifting and handling equipment		15%
18.	84.40 A	Domestic laundry equipment ..		15%
91.	85.06 ..	Domestic electrical appliances ..		15%
20.	85.14 ..	Microphones, loudspeakers and amplifiers		15%
21.	85.22 A	Mixing units for sound reproduction		15%
22.	87.02 A	Passenger-carrying motor cars ..		15%
23.	90.07 B	Cameras		15%
24.	90.08 ..	Cinematographic cameras, projec- tors, sound recorders and sound reproducers	Taxable Value	15%
25.	90.09 B	Non-industrial image projectors		15%
26.	91.01 ..	Watches		15%
27.	92.11 ..	Gramophones, dictating machines and other sound recorders and reproducers		15%
28.	92.12 C	Gramophone records		15%
29.	92.12 D	Other sound or similar recordings, prepared record blanks, prepared tapes, etc.		15%