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To:  
Cabinet Secretary,  
The National Treasury and Economic Planning  
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## PUBLIC SUBMISSION TO THE NATIONAL TREASURY

*Financial Year 2026/27 Budget Statement*

### **Three Ideas on Domestic Revenue, Tax Administration, and Protecting Kenyan Households**

Submitted by:

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### **Introduction**

I welcome the National Treasury's invitation for public input into the Financial Year 2026/27 Budget Statement, and the substantive emphasis the notice places on widening the domestic revenue base, improving compliance, and minimising fiscal pressure on Kenyan households. I share three ideas below. Each is drawn from research I have undertaken over the past several years on Kenyan and African fiscal architecture: doctoral work on Islamic wealth taxation, doctrinal and empirical work on revenue administration, and comparative work on the indexation of nominal fiscal thresholds in jurisdictions facing inflationary and exchange-rate volatility comparable to Kenya's.

- The first idea concerns a substantial source of revenue that the present tax system does not formally recognise or engage.
- The second sets out a fiscal instrument for data centre operations in Kenya, a category of capital that is expanding rapidly under the Special Economic Zones regime but that the current architecture exempts from meaningful contribution.
- The third concerns parts of the tax law that have remained nominally static for years and that therefore add quietly to the burden on Kenyan workers each budget cycle without any policy decision being taken.

None of the three requires raising statutory tax rates, which the Treasury has rightly identified as politically and economically constrained in this cycle.

## 1. Idea One: Bringing Zakat into Kenya's Tax Architecture

Kenya has a Muslim population of approximately 5.5 million. Many among them already pay zakat, an obligatory wealth tax in Islam fixed at 2.5% of accumulated wealth held above a minimum threshold (the nisab) for one full lunar year. Zakat is a fiscal duty under Islamic law, with detailed and well-established rules of calculation, valuation, and distribution. It is not voluntary charity. In Kenya it is currently discharged through family transfer, mosque-based collection, and Muslim charitable organisations. None of these flows currently appear in national fiscal data.

My doctoral research, completed in 2023, sampled 170 zakat payers across Kenya's principal Muslim communities and established the empirical basis for a continental modelling exercise. The resulting tool, hosted at the House of Fiscal Wisdom and accessible at <https://annual-zakat-estimate-for-africa.netlify.app> estimates Kenya's annual zakat collection potential at approximately **USD 59 million**, equivalent to roughly **KES 7.6 billion at current exchange rates**. The model identifies an effective contributor base of approximately 132,000 Kenyan Muslims (one in every forty-two), with an average per capita contribution of USD 10.80 across the full Muslim population. Conservatively benchmarked, the estimate represents in the order of two to three per cent of Kenya's current total domestic revenue and would not require any new rate, threshold, or structural change to existing instruments. The tool is interactive: Treasury staff can adjust the assumptions on wealth distribution, the nisab threshold, and compliance rates to test the figure under alternative scenarios.

**The proposal is not for the State to collect zakat.** State collection would raise a constitutional question under Article 8 of the Constitution of Kenya 2010, which prohibits the establishment of a State religion. The proposal is more practical. **The Income Tax Act, Cap. 470, would be amended to allow zakat paid through accredited Muslim charitable organisations to be claimed as a credit against personal income tax liability, capped at the standard 2.5% rate and supported by documentation.** Two model architectures merit comparative attention. The Malaysian arrangement, administered by Pusat Pungutan Zakat in coordination with the Inland Revenue Board, treats zakat paid as a tax rebate of equivalent value, subject to documentary substantiation under Section 6A of the Income Tax Act 1967. The Indonesian arrangement, administered by BAZNAS under Law No. 23 of 2011, treats zakat paid as a deduction from taxable income before computation of liability. The rebate structure delivers a stronger compliance incentive and is closer to the existing insurance relief and mortgage interest relief provisions in Section 31 and Section 15(3)(b) of the Kenyan Income Tax Act respectively. Mauritius and Eswatini operate analogous arrangements within their respective fiscal frameworks. None of the four jurisdictions has produced constitutional or operational difficulty in the decades these arrangements have been in force.

Four legislative steps would deliver the change.

- First, an amendment to the Income Tax Act creating a zakat tax credit, modelled on the existing insurance and mortgage relief provisions and capped at the 2.5% rate.
- Second, creating an accreditation track for zakat collectors with reporting obligations to the Kenya Revenue Authority.

- Third, a standing inter-agency liaison between the Treasury, the Kenya Revenue Authority, and the Supreme Council of Kenya Muslims to oversee operationalisation.
- Fourth, regulations under the Income Tax Act specifying documentary substantiation requirements, drawing methodologically from the Malaysian receipt and reconciliation framework.

The benefits are twofold. Recognition would bring approximately KES 7.6 billion of currently invisible flows into national fiscal accounting at the lower bound of the model, with higher estimates available depending on the nisab benchmark used. The eight categories of recipients of zakat under Islamic law (the poor, the destitute, those in debt, the wayfarer, and others) substantially overlap with the populations that the Bottom-Up Economic Transformation Agenda is designed to support. Recognition therefore activates a parallel redistributive channel toward BETA priorities at no direct cost to the Treasury and without crowding out conventional revenue.

## 2. Idea Two: A Revenue Architecture for Digital Infrastructure, Algorithmic Value, and High Wealth

I lead [Project TERRA](#) at the House of Fiscal Wisdom, a research programme funded by [Luminate](#) that investigates the fiscal architecture of digital infrastructure across comparator African and Global South jurisdictions, including Kenya, South Africa, Mexico, Malaysia, India, Ireland, and Sri Lanka. The Treasury’s stated objective of widening the domestic revenue base requires fiscal instruments calibrated to the categories of value that are expanding fastest in the Kenyan economy and that the current architecture least effectively captures. Three corrective ideas are proposed.

- First, the introduction of a compute capacity levy on data centres operating in Kenya, calibrated as a fixed annual charge per megawatt of contracted power capacity. The calibration draws on Kenyan electricity tariff conditions and the revenue characteristics of hyperscale colocation and AI compute, indicating a starting range in the order of USD 30,000 to USD 75,000 per megawatt per annum, equivalent to between 3 and 7 per cent of typical all-in electricity cost per MW under the Commercial Industrial 6 tariff schedule. The economic basis is set out in the table below.

Per-MW economic basis	Value
Contracted load (1 MW × 8,760 hours)	8,760 MWh per annum
All-in electricity cost (CI6 tariff plus surcharges, 2025/26)	approximately USD 1,000,000
Typical hyperscale revenue per MW	USD 1.2 – 1.8 million
Proposed levy range	USD 30,000 – 75,000
Levy as proportion of electricity cost	3 – 7 per cent
Levy as proportion of revenue	2 – 5 per cent

Sources: Kenya Power CI6 tariff schedule 2024/25 and 2025/26; EPRA December 2025 surcharges; industry colocation revenue norms.

A graduated structure would protect smaller East African colocation operators while capturing a fair share of the value generated by hyperscale projects: in the order of USD 30,000 per MW for facilities below 10 megawatts, USD 50,000 per MW for facilities between 10 and 100 megawatts, and USD 75,000 per MW for hyperscale facilities above 100 megawatts. Applied to a 100 megawatt facility of the scale currently being announced, the central rate would yield USD 5 million per facility per annum; applied to a 1 gigawatt hyperscale campus of the kind contemplated under the Microsoft and G42 partnership, the upper rate would yield USD 75 million per annum. The architectural advantage of a capacity-based rather than profit-based levy is that it is straightforward to administer and is not vulnerable to the transfer pricing strategies that hollow out the revenue base from a profit-based instrument.

- ii. Second, conditioning any new SEZ fiscal incentive on documented local economic substance: minimum employment thresholds, mandatory technology transfer arrangements with Kenyan universities and research institutions, electricity tariff parity with comparable industrial users under the Energy Act 2019, and full disclosure of beneficial ownership of the data centre operating company under the Companies Act 2015.
- iii. Third, a sunset and phased transition for the existing SEZ Act tax holiday provisions as they apply to data centre operators, with a five-year transition to the standard corporate income tax rate. The architecture preserves Kenya's competitive positioning relative to other East African hubs while capturing a fair share of the value the digital infrastructure generates.

### **3. Idea Three: Indexing the Tax Thresholds So They Keep Up With Inflation**

The personal relief allowance, fixed at KES 28,800 per annum, has not been adjusted in step with the consumer price index for several years. The Finance Act 2023 introduced limited band adjustments at the upper PAYE rates but did not address the architectural issue of automatic threshold maintenance.

The result is a hidden tax. As nominal incomes rise to keep pace with inflation, more workers are pushed into higher tax bands without any improvement in their actual purchasing power. The phenomenon is known in fiscal economics as bracket creep. It falls hardest on the lower-middle and middle-income segments that the Bottom-Up Economic Transformation Agenda identifies as priority constituencies, and it operates as a regressive tax in substance even where the headline architecture is progressive in form. The Treasury has explicitly stated that minimising fiscal pressure on Kenyan households is a Budget objective. Article 201(b)(i) of the Constitution requires the public finance system to promote an equitable society and to share the burden of taxation fairly. The current threshold architecture quietly works against both objectives every year that inflation continues.

Within this broader picture, the personal relief allowance merits separate and specific attention. The relief was set at KES 2,400 per month (KES 28,800 per annum) by the Finance Act 2017, with effect from January 2018, and has remained at that level for over eight years. The relief operates as a tax credit deducted directly from tax payable under Section 30 of the Income Tax Act, and therefore reaches every PAYE taxpayer in Kenya rather than only those at the upper end of the band structure. Its design importance is precisely that it sits as a flat reduction at the foot of the PAYE computation, where its

real-value erosion falls with particular force on lower-income workers for whom the credit constitutes the largest single mitigation against income tax liability. Cumulative consumer price inflation over the period since January 2018, drawing on the Kenya National Bureau of Statistics consumer price index, has eroded the credit's real value by approximately one-third. The current Budget cycle offers the opportunity to restore the relief to its real value at the time of its last adjustment. A figure in the order of KES 3,600 per month (KES 43,200 per annum) would re-anchor the personal relief to its 2018 position, deliver an immediate and visible reduction in fiscal pressure on Kenyan workers consistent with the Treasury's stated Budget objective, and create a clean baseline from which the broader statutory indexation framework can subsequently operate. The measure is administratively straightforward, requires only a single line amendment to the First Schedule of the Income Tax Act, and is the most direct instrument the Treasury holds for delivering household-level fiscal relief in the FY 2026/27 cycle.

### **Conclusion**

I would welcome the opportunity to discuss any of the proposals with the Treasury at greater length. Supporting documentation, including the interactive zakat estimation tool referenced above, draft drafting language for the data centre compute capacity levy can be made available at the Treasury's convenience.

Yours sincerely,



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