

MISCELLANEOUS FEES AND LEVIES

In Kenya, the **Miscellaneous Fees and Levies Act, 2016** governs the imposition of various duties, fees, and levies on imported and exported goods. This legislation aims to generate revenue for specific national projects and regulate trade practices. Key components include:

1. **Export Levy** is a tax imposed on specific goods exported from the country, primarily targeting raw materials to encourage local value addition and industrialization.

Goods Subject to Export Levy:

The First Schedule of the Miscellaneous Fees and Levies Act specifies the goods subject to the export levy. Notable items include:

- **Iron Ores and Concentrates:** These attract a levy of **USD 186.03 per tonne**.
- **Hides and Skins:** Various categories, such as whole hides and skins of bovine animals, are subject to a levy of **80% of the customs value or USD 0.55 per kilogram**, whichever is higher.

Purpose of the Export Levy:

The primary objectives of imposing the export levy are:

- **Promoting Local Processing:** By taxing the export of raw materials, the levy encourages industries to process these materials domestically, thereby adding value within the country.
- **Industrial Growth:** The levy aims to stimulate the growth of local industries by ensuring that raw materials are available for domestic manufacturing processes.
- **Revenue Generation:** Funds collected from the export levy contribute to national revenue, supporting various government initiatives and services.

2. **Import Declaration Fee (IDF)** is a levy imposed on goods imported into the country for home use. The IDF is calculated as a percentage of the Customs Value of the imported goods. As of the latest available information, the IDF rate is **2%** of the Customs Value.

Exemptions:

Certain goods are exempt from the IDF, including:

- Goods destined for approved duty-free shops.
- Goods imported for official aid-funded projects.

- Household and personal effects, including motor vehicles, that qualify for duty exemption under the Fifth Schedule to the East African Community Customs Management Act, 2004.

Purpose:

The revenue collected from the IDF contributes to national development initiatives and helps Kenya meet its international financial obligations.

- 3. Railway Development Levy (RDL)** is a tax imposed by the Kenyan government on imported goods to fund the development and maintenance of the country's railway infrastructure, notably the Standard Gauge Railway (SGR) network. Introduced in 2013, the levy was initially set at 1.5% of the customs value of imported goods. .

Purpose of the RDL:

The primary objective of the RDL is to finance railway projects, such as the SGR, enhancing transportation efficiency and promoting economic growth. The levy contributes to the construction, operation, and maintenance of railway infrastructure, thereby facilitating trade and reducing logistical costs.

Exemptions:

Certain goods are exempt from the RDL, including:

- Goods for official use by diplomatic and consular missions.
- Aircraft and spacecraft, including parts thereof.
- Goods for official use by international organizations with diplomatic privileges.
- Donor-funded project imports, subject to specific conditions.

- 4. Stamp Duty** is a tax levied on various legal instruments, including property transfers, leases, and financial securities. The applicable rates and regulations are outlined in the **Stamp Duty Act**, with the Kenya Revenue Authority (KRA) overseeing its administration.

Key Aspects of Stamp Duty in Kenya:

- 1. Applicable Instruments:**
 - **Property Transfers:** Documents effecting the sale or transfer of land, buildings, or other immovable property.

- **Leases:** Agreements granting tenancy rights over property for a specified duration.
 - **Financial Instruments:** Instruments such as mortgages, debentures, and share transfers.
2. **Rates:**
- **Transfer of Property:**
 - **Urban Areas:** 4% of the property's value.
 - **Rural Areas:** 2% of the property's value.
 - **Leases:**
 - For terms up to 3 years: 1% of the annual rent.
 - For terms exceeding 3 years: 2% of the annual rent.
 - **Financial Instruments:**
 - Mortgages and debentures: 0.1% of the loan amount.
 - Transfer of unquoted shares: 1% of the value.

Payment and Compliance:

- **Timeline:** Stamp duty should be paid within 30 days of executing the chargeable instrument. Delays may attract penalties, including a fine assessed at 5% of the principal duty for every quarter from the date of the instrument.
- **Procedure:** Payments are facilitated through the KRA's iTax platform, where taxpayers can generate payment slips and complete transactions electronically.

Exemptions:

- Transfers between spouses.
 - Transfers of family property to beneficiaries upon the demise of the registered owner.
 - Transfers to charitable organizations.
5. **Catering Levy**, also known as the **Tourism Levy**, is a tax imposed on establishments engaged in regulated tourism activities and services, such as hotels, restaurants, and other related enterprises. This levy is administered by the **Tourism Fund**, a statutory body established under the Tourism Act, 2011.

Key Aspects of the Catering Levy:

1. **Rate and Calculation:**
 - **Levy Rate:** The levy is charged at **2%** of the gross sales derived from the sale of accommodation, food, drinks, and all other services offered by the establishment.
2. **Applicability:**
 - **Eligible Establishments:** The levy applies to owners of regulated tourism activities and services as outlined in the Tourism Act, 2011.

- **Thresholds:** Restaurants and bars with annual gross sales of at least KES 3 million, or an average of KES 250,000 for the first three trading months for new establishments, are required to pay the levy.

Payment and Compliance:

- **Due Date:** Levy payments for each month must be made on or before the 10th of the following month. If the 10th falls on a non-working day, payment is due on the last working day before the 10th.
- **Payment Methods:** Payments can be made through various channels, including cash deposits, banker's cheques, M-Pesa, Electronic Fund Transfer (EFT), and Real-Time Gross Settlement (RTGS).
- **Penalties for Late Payment:** Payments received after the due date incur an immediate penalty of KES 5,000, with an additional 3% penalty on the outstanding levy amount for each month or part thereof during which the amount remains unpaid.

Utilization of Funds:

- The revenue collected from the Catering Levy is utilized to finance various initiatives, including:
 - Development of tourism products and services.
 - Marketing Kenya as a tourist destination through the Kenya Tourism Board.
 - Supporting the Tourism Police Unit.
 - Funding training and capacity development activities in hospitality institutions.

Advantages of miscellaneous fees and levies

1. Revenue Generation for Government

- These levies provide a stable source of income for the government, which is used to fund infrastructure projects, social programs, and public services.
- The **Railway Development Levy (RDL)**, for example, supports the development and maintenance of railway networks like the Standard Gauge Railway (SGR).

2. Encouraging Local Industrial Growth

- Levies such as the **Export Levy** discourage the export of raw materials and encourage domestic processing, leading to increased value addition.
- By promoting local manufacturing, these levies help create jobs and stimulate industrial growth.

3. Regulation of Imports and Exports

- The **Import Declaration Fee (IDF)** ensures proper documentation of imports, reducing cases of undervaluation and tax evasion.
- The **Export Levy** helps regulate the export of critical resources to prevent depletion.

4. Protection of Local Businesses

- Some levies act as trade barriers, reducing the influx of cheap imports that may harm local industries.
- This enables local businesses to compete fairly in the market.

5. Funding for Sector-Specific Development

- The **Catering and Tourism Development Levy** funds tourism-related projects, training, and promotion of Kenya as a global tourist destination.
- The **IDF and RDL** contribute to infrastructure improvements, benefiting the overall business environment.

6. Environmental and Resource Conservation

- Levies on products such as timber, scrap metal, and wildlife trophies discourage over-exploitation of natural resources.
- This helps in environmental conservation and sustainable development.

7. Strengthening Compliance and Accountability

- The fees and levies ensure businesses comply with regulatory requirements, improving tax collection and reducing corruption in customs and trade transactions.

Disadvantages of miscellaneous fees and levies

1. Increased Cost of Doing Business

- Levies such as the **Import Declaration Fee (IDF)** and **Railway Development Levy (RDL)** increase the cost of importing raw materials and finished goods.
- This raises production costs for local manufacturers and businesses, reducing competitiveness.

2. Higher Prices for Consumers

- When businesses incur additional fees and levies, they often pass these costs on to consumers.
- This leads to higher prices for goods and services, making life more expensive, especially for low-income households.

3. Burden on Small and Medium Enterprises (SMEs)

- Small businesses that rely on imports or tourism-related services struggle with compliance costs associated with multiple levies.
- High fees can discourage startups and limit the growth of SMEs.

4. Encourages Smuggling and Tax Evasion

- To avoid paying high levies, some businesses may engage in illegal trade, such as smuggling and under-declaration of goods.
- This leads to revenue losses for the government and unfair competition in the market.

5. Reduces Foreign Direct Investment (FDI)

- High and unpredictable levies can make Kenya less attractive to investors.
- Investors may prefer countries with lower tax burdens, reducing job opportunities and economic growth.

6. Bureaucratic Challenges and Corruption Risks

- The process of calculating, collecting, and paying levies can be complex and time-consuming.
- Corruption may arise as businesses try to avoid high costs by bribing officials for exemptions or lower rates.

7. Potential Negative Impact on Exports

- While export levies are meant to encourage value addition, they can make Kenyan products less competitive in international markets.
- High export costs may discourage local producers from engaging in global trade.

8. Possible Misuse of Collected Funds

- There is a risk that revenue from these levies may not be used effectively for their intended purposes, such as infrastructure development or tourism promotion.
- Mismanagement of funds reduces the intended economic benefits.