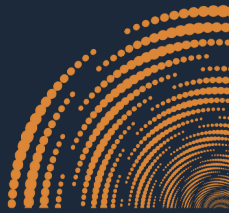


# Finance Bill 2026 - Impact on the Horticulture Export Sector

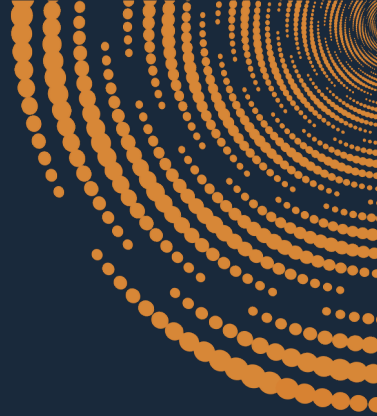
Key Proposals, Risks, and Actions for Exporters





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# Overview of the Webinar

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## What We Will Cover

- VAT changes affecting exporter inputs and cash flow
- Excise duty on packaging materials
- Filing deadlines and compliance penalties
- KRA's expanded assessment powers
- Deemed dividend rule and reinvestment
- Recommended actions for horticulture exporters



# Proposal 1 - VAT Zero-Rated to Exempt Shifts

VAT Reclassification - Inputs Moving from Zero-Rated to Exempt

Proposal: Certain goods and services currently zero-rated (including some agricultural inputs) are proposed to become exempt.

Category	Details
<b>Effect on Tax Statute (VAT Act - Second Schedule)</b>	<ul style="list-style-type: none"><li>• Zero-rated supplies allow input VAT recovery and refunds</li><li>• Exempt supplies do not</li><li>• Suppliers of reclassified goods lose the right to recover input VAT</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Input VAT previously recoverable becomes an irrecoverable cost</li><li>• Final export prices may increase, reducing competitiveness</li><li>• Exporters already face chronic VAT refund delays; this may agitate the position further</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• The policy aims to simplify the VAT base</li><li>• No direct benefit to exporters as this is a cost risk to manage</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Map all inputs currently claimed as zero-rated</li><li>• Quantify the VAT amount that will become irrecoverable</li><li>• Model the cost impact per export container or per stem</li></ul>



## Proposal 2 - Input VAT Clawback (New Section 17A, VAT Act)

VAT Reclassification - Inputs Moving from Zero-Rated to Exempt

**Proposal:** Where a taxable supply becomes exempt, any unsold stock of previously zero-rated inputs held at the effective date must be adjusted, effectively clawing back input VAT already claimed.

Category	Details
<b>Effect on Tax Statute (VAT Act - New Section 17A)</b>	<ul style="list-style-type: none"><li>• Introduces a statutory clawback mechanism</li><li>• Taxpayer must account for VAT on stock where input VAT was previously deducted</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Sudden, unplanned VAT liability on inventory held</li><li>• Liquidity strain for exporters already waiting on refund arrears</li><li>• KFC notes that flower farms maintain substantial stock of packaging, cold-chain supplies, and agricultural inputs</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• None for exporters as it is purely a revenue protection measure for KRA</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Conduct a physical inventory count before the effective date</li><li>• Calculate the input VAT originally claimed on all affected stock</li><li>• Set aside provisions for the clawback liability</li><li>• Consult your tax advisor on timing and valuation methodology</li></ul>

# Proposal 3 - Narrow VAT Offset Mechanism (Clause 50, TPA Section 47)

VAT Offset Mechanism Limited to Corporation Tax

**Proposal:** The VAT offset (credit transfer) mechanism remains largely limited to corporation tax obligations.

Category	Details
<b>Effect on Tax Statute (TPA Section 47, Clause 50)</b>	<ul style="list-style-type: none"><li>• VAT refund claims can offset corporate tax due</li><li>• Offsets against PAYE, withholding tax, import VAT or other taxes are not provided for</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Exporters pay substantial PAYE, WHT and import VAT while accumulating large VAT refund claims</li><li>• Working capital is trapped across multiple tax heads</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• Current law at least allows offset against corporate tax (where corporate tax is due)</li><li>• No expansion of offsets is proposed which is a missed opportunity</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Calculate your total VAT refund claim across all tax heads (PAYE, WHT, import VAT)</li><li>• Quantify the trapped working capital</li><li>• Maximize use of existing offset against corporate tax liability</li></ul>



## Proposal 4 - Excise Duty on Packaging Materials (Clause 36, Excise Duty Act)

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Excise Duty on Packaging Mandatory Export Inputs

**Proposal:** Excise duty applies or is maintained on packaging-related inputs including plastics, labels, paperboard, kraft paper and other packaging materials.

Category	Details
<b>Effect on Tax Statute (TPA Section 47, Clause 50)</b>	<ul style="list-style-type: none"><li>• Excise applies to specified packaging materials</li><li>• No general exemption for exports</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Packaging is mandatory for flower exports (phytosanitary compliance, traceability, cold-chain protection and retail presentation)</li><li>• Excise on packaging directly increases export costs</li><li>• Introduces unfair competitiveness against other flower-exporting countries</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• None for exporters as it will increase the operating costs</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Quantify excise cost per unit of packaging used</li><li>• Negotiate with packaging suppliers on cost-sharing</li><li>• Explore alternative packaging materials with lower or no excise exposure</li><li>• Advocate through industry associations for an export packaging exemption</li></ul>



# Proposal 5 -Aviation / Air Freight Cost Changes (Clause 55 (xv) Miscellaneous Fees & Levies Act)

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Aviation Costs Impact on Air Freight for Fresh Produce farmers

**Proposal:** Changes affecting aviation-related exemptions may increase operating costs for cargo aviation.

Category	Details
<b>Effect on Tax Statute (TPA Section 47, Clause 50)</b>	<ul style="list-style-type: none"><li>• Certain exemptions for aircraft parts and cargo equipment may be narrowed or removed</li><li>• IDF and RDL application on aircraft imports is revised</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Fresh produce products are highly perishable and rely almost exclusively on air freight</li><li>• Any increase in aviation costs directly increases freight charges per kilogram</li><li>• Additional cost increases will further erode exporter margins</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• None for exporters as it will increase the operating costs</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Model the impact of any freight cost increase on your export pricing</li><li>• Review contracts with freight forwarders for cost-pass-through clauses</li><li>• Explore consolidation opportunities to optimize cargo capacity</li></ul>



## Proposal 6 - eTIMS Penalties (Clause 50, TPA Section 86)

eTIMS Penalties for non-compliance with the electronic tax system

**Proposal:** Changes affecting aviation-related exemptions may increase operating costs for cargo aviation.

Category	Details
<b>Effect on Tax Statute (TPA Section 86, Clause 53)</b>	<ul style="list-style-type: none"><li>• Penalty: higher of (2 x tax due) or KES 100,000 (KES 10,000 for individuals)</li><li>• KRA has discretion to waive penalties for system errors (up to KES 2 million)</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Many fresh produce farms operate in rural areas with internet connectivity challenges, power interruptions and system integration problems</li><li>• Genuine technical failures could trigger severe penalties</li><li>• Exporters may be penalized despite good-faith compliance efforts</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• KRA may waive penalties for proven system errors (but capped at KES 2 million)</li><li>• Safe-harbour provisions exist, but scope is uncertain</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Maintain logs of KRA system downtime affecting your eTIMS submissions</li><li>• Implement offline contingency procedures where possible</li><li>• Request written safe-harbour guidance from KRA for rural operators</li></ul>



## Proposal 7 - Shorter Filing Deadline (Clause 19, TPA Section 52B)

Filing Deadline Reduced from 6 Months to 4 Months

**Proposal:** Annual income tax return filing deadline is reduced from six months after year-end to four months.

Category	Details
<b>Effect on Tax Statute</b>	<ul style="list-style-type: none"><li>• Section references updated to reflect shorter timeline</li><li>• Nil returns: due within one month</li></ul>
<b>Risk/Exposure for Horticulture</b>	Fresh produce exporters require extensive reconciliation involving export documentation, foreign exchange records, customs entries, transfer pricing analysis and VAT schedules Reduced timeline increases risk of errors, omissions and penalties
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• Faster filing may lead to faster assessments (but not necessarily faster refunds)</li><li>• No direct benefit to exporters</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Bring forward your tax preparation timetable</li><li>• Begin reconciling export data monthly, not annually</li><li>• Engage your tax advisor early well before the four-month deadline</li><li>• Consider interim unaudited filings with amendments to follow</li></ul>



## Proposal 8 - Deemed Dividend Rule (Clause 16, Section 24, Income Tax Act)

Deemed Dividend on Undistributed Income

**Proposal:** At least 60% of a company's undistributed distributable income may be treated as a deemed dividend and taxed accordingly.

Category	Details
<b>Effect on Tax Statute</b>	<ul style="list-style-type: none"><li>• Commissioner may direct that 60% of retained earnings be treated as a dividend</li><li>• Applies where retention is deemed unreasonable</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Fresh produce farms reinvest heavily in greenhouses, irrigation systems, packhouses, cold rooms, sustainability compliance and expansion</li><li>• Forced distribution would penalize genuine reinvestment</li><li>• Proposal could discourage capital-intensive horticulture operations</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• Exclusions may apply where retained earnings are supported by reinvestment plans, debt obligations, expansion budgets, or working-capital requirements</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Document all reinvestment plans and capital expenditure budgets</li><li>• Maintain board minutes showing commercial rationale for retained earnings</li><li>• Align retained earnings with approved expansion plans</li><li>• Seek advance clarity from KRA on what constitutes acceptable reinvestment</li></ul>



## Proposal 9- Expanded KRA Assessment Powers in the Tax Procedure Act

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### KRA Assessment Powers Using Third-Party Data

**Proposal:** KRA may raise assessments using data from third parties and electronic systems, even without identifying a taxpayer error.

Category	Details
<b>Effect on Tax Statute (TPA Section 75, Clause 48)</b>	<ul style="list-style-type: none"><li>• KRA can originate assessments proactively using external data</li><li>• No taxpayer default is required to trigger an assessment</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Export transactions involve shipment adjustments, rejected consignments, credit notes, exchange rate differences and freight deductions</li><li>• Third-party data (e.g. customs, banks) may not capture these nuances</li><li>• Risk of erroneous or inflated assessments</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• There is no opportunity/benefit to the taxpayer as it will benefit KRA.</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Ensure your own records are detailed and reconcilable with third-party data</li><li>• Maintain audit trails for all adjustments, rejections, and credit notes</li><li>• Respond promptly to any KRA data requests</li><li>• Consider voluntary disclosure for any historical discrepancies before KRA initiates an assessment</li></ul>



## Proposal 10 - Agency Notices During Active Disputes (Clause 45, TPA Section 42)

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### Agency Notices Risk During Active Disputes

**Proposal:** Protections against agency notices (bank account freezes, payroll disruptions) during active tax disputes may be weakened.

Category	Details
<b>Effect on Tax Statute (TPA Section 86, Clause 53)</b>	<ul style="list-style-type: none"><li>• Statutory protection where taxpayer has lodged a valid objection or appeal may be narrowed</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Agency notices can freeze bank accounts, disrupt payroll, stop exports and halt procurement</li><li>• KFC warns this would severely impact business continuity during disputes</li><li>• Flower exporters operate on tight timelines, any freeze causes perishable losses</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• There is no opportunity/benefit to the taxpayer as it will benefit KRA.</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Maintain clean compliance records to reduce dispute risk</li><li>• Respond promptly to all KRA correspondence to avoid escalation</li><li>• Seek professional representation if a dispute arises</li><li>• Advocate for retention of existing protections</li></ul>



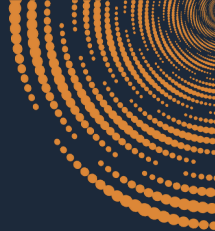
# Proposal 11 - Tax Amnesty

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## Tax Amnesty Interest & Penalties Waived

**Proposal:** All interest and penalties on tax debts incurred up to 31 December 2025 are waived if principal is paid by 31 December 2026.

Category	Details
<b>Effect on Tax Statute (TPA Section 37E, Clause 43)</b>	<ul style="list-style-type: none"><li>• Amnesty applies to liabilities up to 31 December 2025</li><li>• Principal must be settled by 31 December 2026</li></ul>
<b>Risk/Exposure for Horticulture</b>	<ul style="list-style-type: none"><li>• Missing the deadline means losing the amnesty</li><li>• Unresolved legacy liabilities will accrue interest again</li></ul>
<b>Benefit / Opportunity</b>	<ul style="list-style-type: none"><li>• Significant opportunity to clear historical debt at reduced cost</li></ul>
<b>Recommended Action</b>	<ul style="list-style-type: none"><li>• Review your KRA ledger immediately</li><li>• Identify all qualifying liabilities</li><li>• Prioritize settlement of principal before 31 December 2026</li><li>• Consider whether your VAT refund claims can be applied against amnesty principal</li></ul>



# How Tarra Agility Can Help

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