

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY

THE HANSARD

Tuesday, 25th March, 2021

The House met at 7.00 p.m.

*[The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) in the Chair]*

PRAYERS

QUORUM

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the Whips need to do their job. So, I order that the Quorum Bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order, Hon. Members! I think we are good to go. Let us proceed. Hon. Members, we are starting. Members walking in, do so quietly.

CONSIDERATION OF REPORT AND THIRD READING

THE BUSINESS LAWS (AMENDMENT) (NO.2) BILL,
(NATIONAL ASSEMBLY BILL NO. 50 OF 2020)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order, Hon. Members. I will go on to put the Question.

(Question put and agreed to)

I call upon the Mover to move the Bill for Third Reading.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the Business Laws (Amendment) (No.2) Bill (National Assembly Bill No. 50 of 2020) be now read a Third Time. As I move, I would like to record my appreciation to the Members of the House and the Committee for the speed within which we have prosecuted this Bill that will ease the business environment and help all those who would want to come and invest in Kenya. They will realise that Kenya is serious on improving the business environment. I move and request Hon. Kaluma to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): Thank you, Hon. Temporary Deputy Speaker, I second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): That is in order. Any indication or any comments?

An Hon. Member: You have not proposed.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Yes, that is true.

(Question proposed)

(Question put and agreed to)

*(The Bill was accordingly read the
Third Time and passed)*

Next Oder!

MOTION

CONSIDERATION OF THE VALUE ADDED TAX (AMENDMENT) REGULATIONS, 2020

Hon. Charles Njagagua (Mbeere North, JP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Value Added Tax (Amendment) Regulations 2020, laid on the Table of the House on Tuesday, 16th February 2021, and pursuant to the provisions of Sections 6 and 67 of The Value Added Tax Act, 2013, approves the Value Added Tax (Amendment) Regulations 2020, published as Legal Notice No. 188 of 2020.

In exercise of the powers conferred by Section 67 of the Value Added Tax, 2013, the Cabinet Secretary for the National Treasury and Planning published in the Kenya Gazette the Value Added Tax (Amendment) Regulations, 2020 via Legal Notice No.188 of 2020 on 25th September 2020. The Regulations were submitted to the Clerk of the National Assembly. The Regulations seek to delete Regulation 9 of the Value Added Tax Regulations, 2017.

Regulation 9 stipulates the requirement of issuing a taxed invoice when making taxable supplies. However, it did not mandate the VAT register of persons to generate a taxed invoice by use of electronic tax. This created a challenge in enforcement of the compliance in the use of Electronic Tax Registers especially, following the repeal of the Value Added Tax Electronic Registers Regulations 204 in the year 2017.

Regulation 9 requires that a registered person who makes a taxable supply shall tax invoice at the time of supply, furnish the purchase of the taxed invoice containing the ones of the tax, name and address of the supplier, pin and date of the receipt, dates when the tax invoice was issued and the date which the supply was made.

Regulation 9(2) further, provided for an additional option document – an electronic generated physical receipt as a simplified tax invoice for cash sales made from retail premises to be provided by a registered person containing the names, addresses, serial number of the receipt, date and time of issue of the receipt.

The Committee examined the Value Added Tax (Amendment) Regulations, 2020 against the Constitution, the interpretation of the General Provisions Act. Cap. 2, the Value Added Tax, 2013 and the Statutory Instrument Act, No. 23 of 2013.

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The scrutiny was undertaken following the tabling of the Regulations before the House on 15th October 2020 and subsequent referral to the Committee on Delegated Legislation.

In accordance to Section 16 of the Statutory Instruments Act, 2013, the Committee had a meeting with the regulating making authority on 1st February 2021 – the Cabinet Secretary responsible for the National Treasury and Planning.

In observation and having examined the Value Added Tax (Amendment) Regulations, 2020 against the Constitution, the Interpretations and General Provisions Act, Cap.2, Value Added Tax Act, 2013 and the Statutory Instruments Act, 2013, the Committee observed that:

The Regulations were published in the Gazette on 25th September 2020 and were submitted to the Clerk of the National Assembly on 9th October 2020 and laid on the Table of the House on 15th October 2020 within the requisite statutory timelines under Section 11 of the Statutory Instruments, Act.

Article 10 and 118 of the Constitution and Section 5 of the Statutory Instruments Act require that the regulations-making authority conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the Regulations.

We observe that the regulation-making authority demonstrated that public participation was adequately undertaken by some meeting evidence of stakeholder's forums held in the development of the Regulations.

The Regulations do not require a regulatory impact statement within the meaning of Section 6, 7 and 8 of the Statutory Act. They are not likely to impose significant cost on the community and will only affect persons registered under Section 34 of the Value Added Tax, No. 35 of 2013.

We recommend that pursuant to Standing Order No. 210(4) and having examined the Value Added Tax (Amendments) Regulations, 2020, Legal Notice No. 188 of 2020, in line with the Constitution, the Interpretations and General Provisions Act, Cap. 2 of the Value Added Tax, No. 23 of 2013 and the Statutory Instruments Act, No. 23 of 2013, the Committee recommends that the House approves the said Legal Notice in accordance to Section 6(2) of the Value Added Tax Act, 2013.

I beg to move and request Hon. Murugara, a member of the Committee to second.

The Temporary Deputy Speaker (Hon. Soipan Tuya): Hon. Murugara, kindly have the Floor.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker.

I move to second the adoption of the Report and the recommendation by the Committee for reasons that we are now dealing with Electronic Tax (iTax). It is vitally, important that we are able to generate a tax invoice straight away without having to do it manually. The electronic way of paying taxes is a way of easing business in the country so that we generate manual tax invoices all the time, but that can be done electronically.

That efficiency goes into the core of business practice in the country where we are required to ensure that even our taxes are paid timeously. Those are the taxes that we will use to develop the country in our ways. We have looked at the Regulations which conform to our Constitution and to the parent Act and, therefore, this is the reason why the Committee, having considered all aspects of the Regulations, recommends an approval.

With those remarks, I second.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Soipan Tuya): Order, Hon. Members. Who is the Member facing away from the Speaker and not listening?

(Question proposed)

The Temporary Deputy Speaker (Hon. Soipan Tuya): What do you mean? I have a list of requests here, unless this is misleading. Members, are these not requests to debate?

(Hon. Sankok spoke off-record)

The Temporary Deputy Speaker (Hon. Soipan Tuya): Hon Sankok, I hear you shouting “put the question”, and your name is the first one.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Soipan Tuya): I put you to No.5?

The Temporary Deputy Speaker (Hon. Soipan Tuya): Hon. Mbui, are you on this one?

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I rise to support the Report of the Committee on Delegated Legislation and wish to point out that it is not the responsibility of the Committee to deal with the merits or demerits of regulations that come to this House. It just looks at the legality of the instruments guided by the Statutory Instruments Act. What we really look at in that Committee is timely laying of the instruments in the House; whether they conform to the Statutory Instruments Act, in terms of Regulatory Impact Assessment; whether there is enough public participation; and, whether the Constitution of Kenya is respected. We deal with those things. I can say that the VAT (Amendment) Regulations actually passed the test of time.

I would also like to say that there are also benefits in it. As my Vice-Chair and colleague have said, we are moving into digital times. Therefore, even our collection of VAT has also to move with the times. The business of people filling pieces of paper and waiting for months to make claims is going to be a thing of the past when this is passed. That is because at the point of transaction, this information is digitally contained and all the information of buyers and sellers is accessible online. That means it becomes easier going into the future for people to make their claims.

Hon. Temporary Deputy Speaker, I support the approval of these Regulations. Thank you.

The Temporary Deputy Speaker (Hon. Soipan Tuya): Hon. Nyasuna.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support these Value Added Tax (Amendment) Regulations of 2020. From where we come from, as the Committee on Finance and National Planning, it is important that tax collection systems are in order to optimize revenue and are as simple as possible. You remember when you and I were in this Parliament last term and we used to pick very bulky documents from the entrance but, today, we are paperless. We did not imagine that we could achieve that but we have. As we progress, if we continue to require people to work with bulky documents, we are likely to see higher default rates compared to if we have an electronic system. The fact that the regulations omitted allowing VAT electronic tax registers to be used by VAT registered persons is a good correction. I think what we are doing here is just making a small correction to the regulations and I really support.

I encourage that we move to be digital as much as possible and not just in VAT, but we commend Kenya Revenue Authority (KRA) because many of their systems are now digital. We make our tax returns now digitally rather than filling in the papers that we used to do. With those few remarks I support.

The Temporary Deputy Speaker (Hon. Soipan Tuyu): Hon. Nyenze.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I stand to support the deliberations of the Committee. These are times where technology is really improving on high speed and it is good to keep making amendments especially on our laws so that we can embrace the new technology and the new world in our deliberations. Therefore, I support.

The Temporary Deputy Speaker (Hon. Soipan Tuyu): Hon. Rasso.

Hon. Ali Rasso (Saku, JP): Thank you very much, Hon. Temporary Deputy Speaker. The issue of tax is very important. It is not something to take lightly as representatives of the people in this House. If a particular form of tax collection is adopted, it must apply across the board. Why do we have that infrastructure across this country? The idea of having a regulation is for the purpose of uniformity so that Kenyans know these are the regulations along which a particular tax system applies. What we must not lose sight of is the idea of saying if it can apply in Nairobi, Mombasa, Kisumu or Eldoret, and then it can apply across the country in Mandera, Marsabit and Lodwar. Since the Committee has tabled this and they are in agreement, we believe in their wisdom and deliberations. However, what is really important for me sitting in this House is that it must be a system that will be able to support itself in terms of tax collection across the country; that where there is no available infrastructure, it must be put in place to ensure that those in that tax bracket are able to pay their tax.

Thank you.

The Temporary Deputy Speaker (Hon. Soipan Tuyu): Hon. Shabbir.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Chair. As my colleagues have suggested, the issue of the Committee on Delegated Legislation is to check that everything is in order, there is content and that timelines have been maintained. They are not here to look at taxation. The responsibility of the Departmental Committee on Finance and National Planning is to look at the aspect of particular taxation; what it does and how it works.

I stand to support the Motion because it accepts and looks at digitisation of the VAT Act. Taxation must be an effective and robust system; one that is efficient, reliable and, timely. The VAT system had become very cumbersome; very bureaucratic. The VAT refunds were taking years and years to do and people had started taking advantage of the system. Corruption had set in because of inefficiencies. Files were disappearing. I think by doing it digitally, the bureaucracy is going to be put back. It is going to be efficient. The taxpayer is going to understand what is happening. He can check his digital statement. There will be a track of what you are doing, how much you spent, how much VAT you have collected for the State and how much you have paid.

I support whole-heartedly the issue of digitisation and efficiency of this. Tax, like death, is inevitable. The best thing to do is to have a robust system and a system of tax that people can accept as being fair and transparent and I think this is the way we are going. KRA is clearing all the Value Added Tax (VAT) claims that have taken nearly five years, which have been subjected to so much corruption.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuyu): Hon. Sankok, you have changed your mind?

Hon. David ole Sankok (Nominated, JP): Thank very much, Hon. Temporary Deputy Speaker for giving me this opportunity to also add my voice to the debate on this very important Report from the Committee on Delegated Legislation. I must say that they have done us proud, especially us from the Jubilee side. This is because when we went round this country in 2013 and 2017, the most important thing that we promised was that our Government would be digital. Having tax payment digitized is one way of achieving our manifesto as Jubilee. Therefore, I thank them so much. This will assist. Kenyans will now confirm that even though our Manifesto has not been realized 100 per cent, it has been realized almost 90 per cent. This digitization will reduce the red tape kind of cumbersome payment of taxes that we have witnessed in our country. Sometimes, we find files even disappearing and people being double-taxed. Taxes are very important because they run our economy. Think of 30 million Kenyans paying taxes.

Our population has been increasing. If we pay taxes which are documented in analogue forms, you can imagine 30 million forms from 30 million Kenyans being piled up in Times Towers. The KRA will be renting more space just to keep taxpayers' files. Digitization makes it easier to store records. Also, we can fill our tax returns digitally and KRA will be collecting tax returns efficiently. We can pay taxes in the comfort of our bedrooms. We will not necessarily have to incur expenses of travelling to and from KRA offices to fill forms.

I support and implore the Departmental Committee on Finance and National Planning to ensure that they follow up so that all the policies we are putting in place in this House are fully implemented.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuiya): Let us have Hon. John Bunyasi.

Hon. Sakwa Bunyasi (Nambale, ANC): Thank you, Hon. Temporary Deputy Speaker. I support the proposed Regulations. The idea is definitely the right direction. The KRA, as our fiscal agent, will be in a much better position when they have digitized such an important tax like VAT. My hope is that the KRA systems will go in the same direction. I hope their systems will be digitized so that they can be accessible by all taxpayers and non-taxpayers who want to see what is happening. I hope they will make it more responsive to clients' needs where refunds are involved because they will see it at a glance. I hope their figures and the figures at the National Treasury as regards estimates of revenue will continue to agree. Also, all the figures will be verifiable by other interested parties.

So, this is a great step in the right direction. I think taxpayers and citizens as a whole can get back to the task of asking whether they are paying too much. There will be evidence that tax is being collected because they will have to collect what we pass here as law. We have seen the outcry in the recent past about the amount of taxes that have come forth. People are getting more conscious of it. That means, as a country, we are thinking about affordability in terms of payment of taxes.

All the good roads, the new buildings and all other infrastructural developments have to be paid for. These taxes, including VAT, are getting into homesteads in the villages. They can see the increase in their cost of living necessitated by taxes that they have to pay to cater for the various services they receive and the goods they purchase. Maybe, city dwellers with higher incomes will just talk about it. You will talk about how painful it is to fill the tank of your gas guzzler – that is 90 litres. The paraffin user in the village is worried about how to make ends meet following an increase in taxes on commodities and services he has to pay for every day, including matatu and *boda boda* services. These are real questions. Yes, we digitize and it is more efficient. We can

collect all that we are due to collect but I want to go one step back and ask whether really we have to get to this level of taxation to achieve the same benefit.

The pride in bigger and bigger budgets has to be tempered with a realistic assessment of whether those budgets are indeed needed or not. It is common knowledge that nowadays we frequently fall short of our revenue collection targets. One of the reasons may be inefficiencies, which digitization may minimize and improve. The other reason is simply because we match our realizable revenue collection with expenditure levels that we cannot afford. So, we end up with revenue shortfalls, leading to amendments of our budgets through supplementary budgets. Sometimes, we do so several times towards the end of the financial year. That is because our projections on expenditure and revenue did not fall in line.

We have lately seen uproar about our taxation levels. For the first time in the history of this country, people were thinking of tax rebellion as it were. We passed it but Kenyans were not happy about it. It is time we begun to focus on the quality of the expenditure packages that come through the budgets. We should be aware that, at the end of the day, it is “Wanjiku” who is going to pay. It is not the billionaires who suffer. Billionaires will always find ways of raising additional funds. However, the low income earners are devastated. So, I applaud the digitization to ensure we minimize wastage. Let us now begin to focus on the quality of expenditure and the impact of such tax obligations on low income households.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Kinangop.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to support the Report by the Committee on Delegated Legislation. As I support, I would like to point out the fact that the success of any government or economy depends on its fiscal policy.

We have two kinds of taxes that are very important in this country because they yield so much in terms of revenue – Pay as You Earn (PAYE) and Value Added Tax (VAT). The Regulations that have been brought to this House are very important because VAT is a tax that is collected at source by the Government, especially with regard to the issue of withholding. We must have a tamper-proof form of tax collection.

The issue of having all the details of the supplier and the buyer captured electronically is very important. This is going to be a blow to the tax cheats that we have in this country. We also would wish to look into the efficiency of KRA. At times, people hold tax and they do not submit it on time. Business people suffer because they always get notices from KRA asking them to declare monies that have been withheld by the withholders and yet they have done their part. It is now incumbent upon the KRA to ensure that they reign in on the tax withholders so that the monies are submitted to them on time.

Finally, on the issue of tax refund, a business person finds that he has paid more to KRA and he demands the difference to be refunded to him. The refund does not get to the business person in time. There are instances where I have seen the...

Hon. Gichimu Githinji (Gichugu, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Gichimu, are you on intervention?

Hon. Gichimu Githinji (Gichugu, JP): Yes, after he is done.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): What do you mean? You are out of order. Then do not signal me on intervention, if that is not your intention. What are you pre-empting to intervene on, if not what is going on? You are back again. Do you have something to say about Hon. Kwenya's contribution? If not, please sit down and wait for your turn. Go on Hon. Kwenya.

Hon. Zachary Thuku (Kinangop, JP): Thank you, Hon. Temporary Deputy Speaker. I hope by the time I am done, he will know what he wanted with the intervention. We have seen situations where the President gives a directive that all monies be refunded to taxpayers as provided and this does not happen. For example, one mitigation measure taken by the President in terms of ensuring business people are refunded their money did not happen.

I pray and ask our Departmental Committee on Finance and National Planning to follow and see that such directives are implemented. We are talking about making this country a business hub and easy for our people to do business.

With those few remarks, I support the Report.

Hon. Gichimu Githinji (Gichugu, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Gichimu, I will not give you a shortcut because I have to give someone on this end. If you are pressing the intervention button for me to let you speak, then that is a shortcut. Yes, Hon. Gichimu.

Hon. Gichimu Githinji (Gichugu, JP): On a point of order, Hon. Temporary Deputy Speaker. I am now rightly placed to stand under Standing Order No.95 that the Mover be called upon to reply. This is because after having listened to what is being canvassed here; I have heard a chorus in support. There other two Bills related to this one on tax. So, other interested voices will also be heard in the other two Bills that are coming.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Gichimu, I thought you knew the procedure and you are in order. I will not make that decision, but put the Question on it so that we know how to go about it. Hon. Members, following the intervention by Hon. Gichimu, I go on to put the Question.

(Question, that the Mover be now called upon to reply, put and agreed to)

Therefore, I proceed to call upon the Mover to reply.

Hon. Charles Njagagua (Mbeere North, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to record my appreciation to the Committee Members and this House for enormously supporting the Value Added Tax (Amendment) Regulations 2020; that is Legal Notice No.188 of 2020. I have heard the comments from Members especially on digitization of VAT. Members would wish to get timely refunds and have stated that this will catch up with tax cheats. The previous regime was very untidy, cumbersome and archaic. Once we digitize, we will be moving in sync with the rest of the world.

With those few remarks, I move to reply. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, I will defer putting of the Question until when we have the Motion back on the Order Paper. Therefore, we move to the next Order.

(Putting of the Question deferred)

MOTION**CONSIDERATION OF THE VALUE ADDED TAX
(ELECTRONIC TAX INVOICE) REGULATIONS, 2020**

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): I understand Hon. Shamalla is the one to move the Motion.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Yes, Hon. Temporary Deputy Speaker. I beg to move:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Value Added Tax (Electronic Tax Invoice) Regulations, 2020, laid on the Table of the House on Tuesday, 16th February 2021 and, pursuant to the provisions of sections 6 and 67 of the Value Added Tax Act, 2013, approves the Value Added Tax (Electronic Tax Invoice) Regulations 2020 published as Legal Notice No. 189 of 2020.

*[The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) left the Chair]*

*[The Temporary Deputy Speaker
(Hon. (Ms.) Jessica Mbalu) took the Chair]*

The Committee on Delegated Legislation is established pursuant to Standing Order No.210 and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instruments, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.

In exercise of the powers conferred by Section 67 of the Value Added Tax Act, 2013, the Cabinet Secretary for National Treasury and Planning made the Value Added Tax (Electronic Tax Invoice) Regulations, 2020 vide Legal Notice No. 189 of 2020 on 25th September 2020. The Regulations were submitted to the Clerk of the National Assembly on 9th October 2020 and tabled before the House on 15th October 2020.

The Regulations provide a legal framework to govern the use of electronic tax registers in accordance with section 43(4) of the VAT Act in order to provide for the interpretation scope of application, use of the register, tax invoices and transmissions thereof obligations of the user and creates offences for non-compliance and contravention.

The Regulations also seek to enforce the VAT compliance and minimize fraud and tax evasion by obligating a registered user under section 34 of the VAT Act to generate a tax invoice. The use of electronic tax registers by registered persons will provide for standardization and uniformity of tax invoices generated and enhances effective compliance and enforcement measures by minimizing VAT fraud. The use of electronic tax registers will also ensure enhanced administration of VAT.

What is the legal basis for the scrutiny? The Committee examined the VAT (Electronic Tax Invoice) Regulations, 2020 against the Constitution, the Interpretations and General Provisions Act, the Value Added Act, 2013 and the Statutory Instruments Act (*No.23 of 2013*).

The scrutiny was undertaken following the tabling of the Regulations before the House on 15th October 2020 and subsequent referral to the Committee on Delegated Legislation.

In accordance with Section 16 of the Statutory Instruments Act, 2013, the Committee held a meeting with the regulation-making authority on 1st February 2021 in Mombasa. The delegation was led by Hon. (Amb.) Ukur Yattani, the Cabinet Secretary (CS) responsible for National Treasury and Planning.

The CS informed the Committee that the Value Added Tax (Electronic Tax Invoice) Regulations, 2020 intends to provide for standardization and uniformity of tax invoices generated. This will enhance effective compliance and enforcement measures, which will result in an increase in revenue by minimizing VAT fraud. The Regulations will support the ease of doing business in the country, as it will facilitate the simplification of VAT tax returns and also facilitate faster processing of VAT refund claims. Businesses with existing electronic tax registers will be facilitate to update the register to comply with the new system at no cost.

Having examined the Value Added Tax (Electronic Tax Invoice) Regulations, 2020 against the Constitution, the Interpretations and General Provisions Act (Cap 2), the Value Added Tax Act, 2013 and the Statutory Instruments Act, the Committee observed that—

The Value Added Tax (Electronic Tax Invoice) Regulations, 2020 were published in the Gazette on 10th September, 2020 vide L.N. No.189 of 2020, submitted to the Clerk of the National Assembly on 9th October 2020 and laid on the table of the House on 15th October 2020; being within the requisite statutory timelines under section 11(1) of the Statutory Instruments Act, 2013.

The regulation-making authority demonstrated that public participation was adequately undertaken by submitting copies of evidence of stakeholder forums held in the development of the regulations. The Kenya Revenue Authority (KRA) sought views from the public and stakeholders through a public notice dated Friday, 29th May 2020. The Authority received feedback from the stakeholders who were in support of the proposed regulations with few amendments. Taking into consideration the advances in technology, the stakeholders recommended view of some aspects of the regulations were incorporated in the final draft. The regulations do not require a regulatory impact statement within the meaning of Sections 6, 7 and 8 of the Statutory Instruments Act as they are not likely to impose significant costs on the community and will only affect persons registered under Section 32 of the Value Added Tax Act.

Having examined the Value Added Tax Regulations against the Constitution, the Interpretations and General Provisions Act, Value Added Tax Act and the Statutory Instruments Act, the Committee recommends that the House approves the said Statutory Instruments in accordance with Section 67 of the Value Added Tax Act No. 35 of 2013.

Hon. Temporary Deputy Speaker, I beg to move and request Hon. Oundo, a member of the Committee on Delegated Legislation, to second the Report.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Oundo for seconding.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I am a member of the Committee and I stand to support the VAT (Electronic Tax Invoice) Regulations 2020 published as Legal Notice No. 189 of 2020. In the endeavour of Kenya improving on the ease of doing business ranking in the world, there has been need to continuously review the process and procedures involved in invoicing and collection of taxes. All along, there was a regulation in 2004 in respect of electronic tax invoice but, due to the challenges, the same was abolished and that is why the CS in charge of Treasury has gazetted the VAT (Electronic Tax Invoice) Regulations.

In reviewing these particular regulations, the Statutory Instruments Act literally limits the mandate of the Committee to various issues. One is to confirm whether there was public participation. Secondly, to confirm whether there was a regulatory impact statement. As part of the team, we confirmed there was adequate public participation in view of the nature and type of regulations at hand. The main purpose of these regulations is to standardize the generation of tax invoices so that wherever you go or wherever you are, it is standardized and is of the same style and nature. It is envisaged that this process will ensure tax compliance and enforcement of defaulters and fraudsters.

Hon. Temporary Deputy Speaker, with those few remarks, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Chair of the Departmental Committee on Finance and National Planning.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. In this season when our revenues are depressed, it is important that we standardize and align all our revenue collection measures and systems so that we are able to optimize the revenue that we collect, seal any loopholes for revenue leakages and deal with fraud. Digitization not only increases efficiency in revenue collection, but also deals with the issue of fraud.

So, as we spoke in the earlier Regulations, this is meant to standardize and streamline operations of revenue collection, particularly Value Added Tax. So, anything that goes towards improving efficiency and optimizing revenue as the Departmental Committee on Finance and National Planning, we can only say thumps up and well done. We must continue as much as possible to align all our systems towards optimized revenue collection. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I have six requests. I do not know whether you want to speak to the other Motion. Hon. Members, you cannot shout from where you sit. You are shouting "Put the Question". Yes, Member for Tharaka, Hon. Murugara Gitonga.

Hon. George Gitonga (Tharaka, DP): Thank you, Hon. Temporary Deputy Speaker. Judging from the mood of the House and having heard from the Chairperson of the Departmental Committee on Finance and National Planning, I stand under Standing Order No. 95 and request you to call upon the Mover to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You are quite in order.

(Question that the Mover be now called upon to reply, put and agreed to)

Let us have the Mover.

Hon. (Ms.) Shamalla Jennifer (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I wish to take the opportunity to thank the members of the Committee on Delegated Legislation for the tireless and unending energy in the work that they do. I also thank this House incredibly for the comments and the advice that has been given to the Committee on Delegated Legislation. We recognize and appreciate the comments made and we understand the difficulties that come with the burdens of paying taxes. But these are really Regulations to ensure that the taxes are collected effectively. We must appreciate and understand that taxes are really the bloodline for any government around the world.

With those few remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): With that, I order that the putting of the Question to Motion No.10 on consideration of the Value Added Tax (Electronic Tax Invoice) Regulations 2020 be deferred.

(Putting of the Question deferred)

Next Order!

MOTION

CONSIDERATION OF THE VAT (DIGITAL MARKET PLACE SUPPLY) REGULATIONS

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Chairperson of the Committee on Delegated Legislation to move the Motion.

Hon. Munene Wambugu (Kirinyaga Central, JP): Thank you, Hon. Temporary Deputy Speaker. I am not the Chairperson but I was mandated by the Committee to move the Motion.

Hon. Temporary Deputy Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Value Added Tax (Digital Market Place Supply) Regulations, 2020, laid on the Table of the House on Tuesday, 16th February 2021 and, pursuant to the provisions of sections 6 and 67 of the Value Added Tax Act, 2013, approves the Value Added Tax (Digital Market Place Supply) Regulations 2020 published as Legal Notice No. 190 of 2020.

This Committee is established under Standing Order No.210 and its main mandate is to consider statutory instruments submitted to Parliament, for consideration.

In exercising the powers conferred under Section 67 of the Value Added Tax Act 2013, the Cabinet Secretary for the National Treasury and Planning made the Value Added Tax (Electronic Tax Invoice) Regulations 2020 vide *Legal Notice No.190* of 2020 on 25th September 2020. These regulations were submitted to the Clerk of the National Assembly on 9th October 2020 and tabled before the House on 15th October 2020. The objects and purpose of these Regulations is to provide a legal framework to govern the use of electronic tax registers in accordance with Section 43(4) of the Value Added Tax Act No.23 of 2013 in order to provide for the interpretation, scope of application, use of the register, tax invoices, the transmissions thereof and the obligations of the user to create for non-compliance and contravention. These regulations seek to enforce the Value Added Tax Compliance and minimise fraud and tax evasion by obligating a registered user under Section 34 of the Value Added Tax Act to generate a tax invoice.

Further, the use of tax register by registered person will provide for standardization and uniformity of tax invoices generated and enhance effective compliance and enforcement measures by minimising Value Added Tax fraud. The use of electronic tax registers will also ensure enhanced administration of the Value Added Tax. The legal basis for the scrutiny is basically against the Constitution, the Interpretation and General Provisions Act, the Value Added Tax Act and the Statutory Instruments Act No. 23 of 2013. The scrutiny was undertaken following the tabling of the regulations before the House on 15th October 2020 and subsequently to the Committee on delegated legislation.

In accordance with Section 16 of the Statutory Instrument Act 2013, the Committee held a meeting with the regulations making authority on 1st February 2021. The delegation was led by the Cabinet Secretary for the Ministry of National Treasury and Planning. The Committee observed that the Value Added Tax (Electronic Tax Invoice) is against the Constitution, the Interpretation and General Provisions Act, the Value Added Tax Act and the Statutory Instrument Act. The Committee made the following observations.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Hon. Wambugu Munene, are you moving Motion No.11 on the Consideration of the Value Added Tax (Digital Market Place Supply) Regulations 2020?

Hon. Munene Wambugu (Kirinyaga Central, JP): Yes. The three of them are interrelated. You may not tell the difference. Hon. Temporary Deputy Speaker, I beg to go on.

We looked at the statutory timelines under Section 11 of the Statutory Instrument Act and the Committee was convinced that the regulations were submitted within the requisite statutory timelines under Section 11(1) of the Statutory Instrument Act.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us add him about two minutes to clear.

Hon. Munene Wambugu (Kirinyaga Central, JP): The Committee was convinced beyond reasonable doubt that adequate public participation was undertaken under Section 5 of the Statutory Instrument Act. We also considered that the regulations do not require a regulatory impact estimate within the meaning of Sections 6, 7 and 8 of the Statutory Instrument Act as they are not likely to impose significant cost on the community and will only affect persons registered under Section No.34 of the Value Added Tax No.35 of 2013.

Having considered all that, the Committee recommends that the House approves the said Statutory Instrument in accordance with Section 67 of the Value Added Tax Act No.35 of 2013.

I beg to move and request Hon. Gichimu Githinji, who is a Member of the Committee, to second the Report.

Hon. Gichimu Githinji (Gichugu, JP): Thank you, Hon. Temporary Deputy Speaker, I rise to second. This Committee is limited mainly to matters procedure. The matters substance has already been left to the CS under Section 67 of the parent Act. One of the issues or the areas that this Committee must interrogate is timelines. I must also thank the Clerk for timely transmission of regulations into this House to enable this Committee to transact business within the requisite timelines. Having established that, the other constitutional and statutory requirement of public participation comes into play. Once that has been understood as the Committee did, then the issue of regulatory impact come into play and in this case, it is just a matter of...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Sankok, what is out of order? Cite what is out of order.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I rise on a point of order. We are not yet out of the woods of COVID-19, but I see Hon. Members sitting close to each without masks. They are putting on their masks as chin guards. You know it is very painful to see somebody who is not wearing a mask and he has your debt.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Can you cite the Member?

Hon. David ole Sankok (Nominated, JP): You know when somebody owes you, it is very painful to see them not wearing a mask.

(Laughter)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I have just seen the Member. Please, wear your mask. If I were you, when the Member rose on a point of order and stated that it was about masks, I would have worn it immediately. Hon. Members it is not a joke, let us do the necessary and protect others if you do not want to protect yourself. Hon. Member 001, thank you. Carry on Hon. Gichimu.

Hon. Gichimu Githinji (Gichugu, JP): I thought the point of order was in respect of my contribution. I thought it was misplaced because no one was pointed out as not having a mask. Let me proceed with my contribution.

I was on the point of regulatory impact. This is a procedural aspect of streamlining the issue of tax payment to have efficiency in taxes. Everyone is aware that we have a problem of tax collection in this country. I believe, with these regulations, the Cabinet Secretary who is mandated with this aspect and responsibility of tax collection will achieve his targets and take care of all the issues, including the kind of issues that we have been raising in this House of the NG-CDF.

Hon. Temporary Deputy Speaker, without much ado, I beg to second.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Madam Temporary Deputy Speaker, I can give you time to resume your seat.

(Question proposed)

Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support the approval by the House of these Regulations and to register my thanks for the Committee in looking at these Regulations.

You will note that these Regulations relate to VAT on the digital market place. Members may remember that last year, we created a new taxation regime that now supplies within online shopping, and all that will be taxable. These regulations come into play to ensure that we have a basis for taxing people operating within that space. More importantly, to bring some harmony between local suppliers and people supplying from out there.

With COVID-19, one of the things that happened is that most of the people are not going to physically visit shops. People are buying things online. It is not quite clear how VAT taxation is taking place. So, these Regulations come in to help sort out this issue especially for people who are outside the country selling things into Kenya. They do not have a physical presence within Kenya, but Kenyans are purchasing their goods. If you buy similar goods from a person who is a resident in Kenya, there is VAT being paid, but if you buy from Amazon, for example, you do not pay VAT. That brings some inequity in terms of the taxation regime.

Hon. Temporary Deputy Speaker, one of the canons of a good tax regime is that it should be equitable and also for purposes of making sure that our people are not disadvantaged by outsiders, including somebody in Uganda, Tanzania or the neighbourhood selling things to Kenya. With that VAT element lacking, it kills our competitiveness. Basically, this is what I see these Regulations doing. The tax started in January, so, the regulations are long overdue. The earlier we pass and approve them, the better, so that we can test and keep refining them. It is a whole new regime that has not been tested before but it is happening, it is a global thing that people have now realized with Covid-19 that physical shops are closing while the digital shops are expanding.

You will note, Hon. Temporary Deputy Speaker, that all the companies that have invested heavily on that global, the technology companies, are the only ones which have reported heavy profits across the world, whereas people who have been waiting for customers to actually get in are suffering huge losses. How I wish we could have digital travel, then our own Kenya Airways

(KQ) perhaps would be in a better position. Unfortunately, we cannot do that except in the realm of the movies, to see places without necessarily having to travel and hence the Netflix's and all that of this world, are making a lot of money. We need our share of pound of flesh as it were. I just wanted to highlight that and thank the Committee for what it has done.

With those few words, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Almost all Acts of Parliament delegate some responsibility to the authorities to do some legislation. That is normal because you cannot put everything in an Act of Parliament. So, some little leeway is given to cabinet secretaries to do regulations and those regulations are the ones that come to the Committee. Sometimes I ask myself how life was before the Committee on Delegated Legislation was created. Currently, any instrument must be brought to the House for scrutiny so that we can ensure that it conforms with the law and is also constitutional. Basically, I just want to say that I support this Motion.

When we are talking about taxation, many people might be listening out there and thinking that this Parliament is in the middle of the night coming up with new taxation measures and all that. I just want to array anyone's fears that we are not in any way creating any new regime of taxation. We are not increasing VAT, but we are basically just ensuring that the current situation is improved and collection of taxes, and ensuring that people who are evading taxes in their own sly ways are now brought under the bracket. No one needs to worry that we are discussing tax at night.

I have said this because I have some messages to show that people are concerned what this VAT is all about. The current situation is that, honestly, Kenyans are really overburdened by tax. So, they think that in the middle of the night, that is when Members sit and craft new tax regimes. I want to array anyone's fears that we are not increasing any taxes. We are just streamlining the current situation and ensuring the collection is done in a better manner.

I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chairperson, Departmental Committee on Finance and National Planning, you have the Floor.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I thank the Member for Kathiani for making that clarification. We can very easily be accused of hiding here in the middle of the night to introduce new taxes. These were already dealt with in the Finance Act and, therefore, we are just putting in place a framework within which they can be implemented. So, it is not introducing anything new without the requisite public participation.

As the Leader of the Majority Party has correctly put it, the digital market place is growing. More and more people are selling including on Facebook, for example, or other online platforms. In fact, during COVID-19, people closed all their shops, but they have not re-opened them because some people fear licences and all the other requirements. They have gone online.

More importantly, this is not so much to focus on our own young people who are doing their innovations, but to keep off big firms that are selling to us here and are paying absolutely no taxes. You cannot compete if your products are being levied VAT, but somebody is selling online and you cannot place them anywhere. They go ahead and sell at much lower rates. The competition is unfair. This is not to disadvantage young Kenyans or any Kenyans, but to fend off that unfair competition, and to have a framework in place.

There are currently a lot of conversations around the whole issue of the digital space. There is conversation around regulation of digital lenders such as Branch and Tala. How do we regulate digital lenders who are mandated with lending money and ensure that we capture them? There is a big conversation around the digital marketplace. This is not the end of it. We will continue to have it because it is also a very dynamic space.

Even as we pass these Regulations, the Kenya Revenue Authority (KRA) must be aware that we are dealing with a very dynamic space. Therefore, we must have measures in place for surveillance. How will we catch people in the digital space? How will we monitor new entrants and transactions? We must be as vigilant and as dynamic as possible. This is not the kind of thing that we review after three or five years. By December this year, it will take a new shape and form with innovation.

Even as we regulate and impose taxes, we must be careful not to kill innovation and discourage people who want to innovate and grow innovations. Many young Kenyans are in this space and are innovating. We must strike a delicate balance between levying taxes, getting revenue and fending off unfair competition. However, we should not stifle innovation, so that people feel that they cannot innovate in our country because of unfair tax regimes.

I support the Bill.

The Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Member for Gatanga, Hon. Ngugi Nduati, would you like to speak to this?

Hon. Joseph Nduati (Gatanga, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me a chance to also contribute.

From the onset, I support the VAT (Digital Market Place Supply) Regulations and the added regulations to deal with the electronic tax invoice. These have come at the right time to support our businesses. The Government has been losing a lot of money, especially when we use electronic tax register (ETR) receipts. Fake receipts used to be printed at River Road to offset input tax. The Government used to lose a lot of money. I support any amendment which will ensure we collect more tax.

However, the greatest culprit in all this is the Government, especially when it comes to paying contractors and suppliers. The KRA demands that when invoicing, you have to pay VAT. You invoice the Government, but they do not pay you. You incur penalties, yet they are not captured anywhere within the contract. As we make these Regulations, this is something that we need to review and find a way of how the Government will support businesses. Sometimes you will find that the Government will pay principal amount, then they fail to pay you VAT. We suffer as businesspeople.

The other problem is that this House has been used before to reduce the budget for development. We reduce the budget not knowing that some businessmen have incurred a lot of costs. They have invoiced, not been paid, yet we sit here and deduct. Before we do that, we need to consider our businessmen and support them. As we support the Government, they should also support our businessmen.

With those few remarks, since a lot has been said, thank you very much for giving me the chance to contribute.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have Hon. ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this very important Motion.

As Hon. Wanga has rightly put it, the digital market is growing in innovation. It is a market that can mutate within months. As we put these Regulations in place, we should also be aware that they keep on changing. What we are regulating now may not apply to the digital platform in the near future.

There has been a lot of unfair competition for our shopkeepers and those who have physical space to sell their merchandise. You find that they cumulatively pay taxes amounting to almost 30 per cent of what they are selling. They pay VAT of almost 16 per cent and also have to pay for county licences. You will find that cumulatively, it amounts to 30 per cent. You can imagine someone from abroad selling a commodity that costs Kshs1 million on a digital platform and a person who has physical space will have to add 30 per cent on top due to taxes, which means they will spend Kshs1.3 million. For them to make a profit, they must sell the commodity at Kshs1.4 million. However, for someone who does not pay any taxes, they can sell that commodity at Kshs1.1 million and still make a profit of Kshs100,000. Therefore, it is very unfair competition.

The digital marketing strategy assists all of us. We can shop from the comfort of our homes. However, the Government must make money. We are not against our youth who are innovative. We are protecting them from international digital suppliers who may not be paying taxes, and therefore, will not assist us in improving our infrastructure. They earn a lot of money that develops other countries outside our region. That is why we say that they should pay taxes to assist the Government to implement some of the social amenities that we require.

The digital market supply is very important especially for persons with disabilities. Our movement is not up to standard. We are very slow in moving. Sometimes it is very expensive for a person with disabilities to move from point A to B, even if it is only 500 metres. If you have a wheelchair, with the terrain that we have, even taking your merchandise to the market is very costly. You will have to pay someone to carry that merchandise while my brother Hon. Kizito can carry it on his back. I do not have the physical strength to carry merchandise, so I have to employ somebody to carry it. When those of us on wheelchairs go to the market, we have to pay fare for the wheelchair, ourselves and the person who pushes the wheelchair. It is very expensive. This digital marketing strategy has solved most of our problems because we can be businesspeople from the comfort of our homes. We can sell or buy our merchandise digitally without necessarily moving from point A to B, because our movement is not that fast and efficient.

We need to have these Regulations, so that we can earn taxes. We also need some regulations to support this innovation, so that we can move together with the world which has become a global village.

With those many remarks, I support the Motion.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Member of Parliament for Matungu, Hon. Oscar Nabulindo.

The Member of Parliament for Matungu (Hon. Peter Oscar Nabulindo): Thank you, Hon. Temporary Deputy Speaker. Let me take this opportunity to thank you very much because this is my Maiden Speech.

(Applause)

I would like to take this opportunity to first of all thank the Almighty God for enabling me to be in this honourable House. Secondly, I take this opportunity to thank the people of Matungu Constituency from the bottom of my heart for having faith in me and voting for me overwhelmingly to come to represent them here.

(Applause)

Hon. Temporary Deputy Speaker, I also take this opportunity to thank my Party, Amani National Congress (ANC), and the party leader, Hon. Musalia Mudavadi, for supporting me wholeheartedly throughout the campaign period and up to today. I also take this opportunity to thank all my friends, colleagues and well-wishers, who supported me in terms of very many things, namely, emotionally, physically, psychologically and financially.

I also take this time to thank leaders across the country, especially the leader of the Forum for the Restoration of Democracy-Kenya (FORD-K), Senator Wetangula, the leader of Kenya African National Union (KANU), Senator Moi, and the leader of the Wiper Democratic Movement-Kenya (WDM-K), Hon. Kalonzo Musyoka. I will not finish before I thank my colleagues who are the staff of Parliament. I have called them my colleagues because I worked in Parliament from 2001 up to 2017 when I resigned to go into politics. They supported me strongly. As I was campaigning, I received their goodwill messages. I thank them very much.

Matungu Constituency is unique because it has very many problems. It has more problems than other constituencies in Kenya because almost 90 per cent of the entire population lives in abject poverty. That is a reality that we live with. It is a concern for us, as leaders of that region. The reason many residents of Matungu Constituency sunk into poverty is because the only source of income they had for years collapsed with their dreams, namely, the Mumias Sugar Company. It brought many dreams to a halt. The entire population of Matungu Constituency used to depend on Mumias Sugar Company for their livelihoods. They used to benefit either directly or indirectly from it. The collapse of the company led to unforeseen and numerous problems in the constituency. That problem affects almost all sectors of the human living in Matungu Constituency.

First, education in Matungu Constituency remains behind more than other regions in the country. Very many parents cannot afford to take their children to school anymore. Parents used to depend on their only cash crop, sugar cane farming, to take their children to school and fulfil other family needs. Unfortunately, that is no longer available. Therefore, Matungu Constituency witnesses a lot of school dropouts. We have very many school dropouts especially the girl child. Very many poor parents are presented with a situation on whether to educate the boy or the girl. Obviously, the vote goes to the boy. So, most girls do not get the opportunity to go to school. That is why we have very many dropouts, early pregnancies and marriages. This is something that goes on in Matungu Constituency unabated. Therefore, poverty eradication mechanisms need to be put in place through women and youth empowerment, so that we can create incomes for the general population for them to sustain their lives.

In terms of health, Matungu Constituency has one hospital called “Matungu District Hospital”. As you all know, it is one of the most ill-equipped hospitals in the country to the extent that the by-election that happened in Matungu Constituency happened because of it. The Member of Parliament who passed away, Hon. Justus Murunga, lived two kilometres from this hospital. When he collapsed, he was taken there, but there was no oxygen to save his life. He lost his life because the hospital is ill-equipped. It is as simple as that. By the time they rushed him from Matungu District Hospital to Mumias Town, which is five kilometres away, he was already dead.

Hon. Temporary Deputy Speaker, I can see the red light. You can give me more time to contribute since this is my Maiden Speech. Thank you very much. Matungu District Hospital does not have ventilators, oxygen, intensive care unit (ICU) and medicines. It has only two or three doctors instead of 20. It has 10 nurses instead of 100. So, it is one of the most ill-equipped hospitals.

I urge fellow leaders and the Kakamega County Government to speed up equipping the Matungu District Hospital. If a Member of Parliament can die, what about an ordinary *mwananchi* who uses that facility on a daily basis? I could have said more about Matungu Constituency, but due to time, I limit myself.

Secondly, I will take this opportunity, first, to say that today, I am a very sad person because my friend and my chief campaigner, Sen. Cleophas Malala, lost his seat because of me. He lost his seat because he stood with me and with his party, the ANC. He was sacrificed because of that stand. It is very unfortunate that our big brother is very intolerant. Actually, it is a shame because I thought politics of Matungu should have remained in Matungu. The vengeance being carried up to the national level is not acceptable.

Therefore, Hon. Temporary Deputy Speaker, I wish to end my short speech about Matungu. I thank you for giving me the opportunity.

With regards to today's Motion on digitisation of taxation measures, I support.

Thank you very much, Hon. Temporary Deputy Speaker.

(Applause)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You support. Very well. You know we do not interrupt the Maiden Speech. I am sure you have read the Standing Orders on relevance and accuracy, but welcome to the National Assembly. You were a member of staff and now you are a Member of Parliament, an Hon. Member.

Let me have the Member for Kitui Rural.

Hon. David Mboni (Kitui Rural, CCU): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to speak about this Motion on the Value Added Tax (Digital Market Place Supply) Regulations 2020.

We are all aware that most of the big digital suppliers like Amazon and Alibaba operate in this country. These companies do not pay VAT or Corporate Tax. This brings unfairness to the local firms because most of the Kenyans buy from there and these companies do not pay tax to this country.

Hon. Temporary Deputy Speaker, as we speak, tax revenue as a percentage of the Gross Domestic Product (GDP) has gone down from 25 per cent in 2013 to around 13 per cent currently.

(Hon. Oscar Nabalindo crossed the Floor without bowing)

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Order! The new Member, now that you have made your Maiden Speech...

Hon. David Mboni (Kitui Rural, CCU): This has resulted to...

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Order! Hon. Mwalika, when the Speaker is speaking, you do not interrupt.

Hon. David Mboni (Kitui Rural, CCU): Oh! Okay.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): I was addressing the new Member. The Member for Matungu, we do not cross the Floor without bowing. Now that you made your Maiden Speech, we do not do that. Yes, Hon. Mwalika?

Hon. David Mboni (Kitui Rural, CCU): I was saying that we are seeing tax revenue as a percentage of the GDP going down from 25 per cent in 2013 to 17 per cent currently. This has resulted to high budget deficit, high borrowing, high debt servicing and slow economic growth.

The low tax revenue has resulted due to taking long to adapt to some of these reforms as a country. So, these Regulations are very ideal to enhance tax revenue. Again, we need to think about the KRA and its funding. To me, KRA is underfunded. We need to make more funds available to KRA, so that they can enhance and reform their ICT systems and be able to collect more, hire more staff and train staff in tax collection.

With those few remarks, I support. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, Member for Kitui Rural. Now let us have the Member for Funyula.

Hon. (Dr.) Wiberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I will be very brief. I am a Member of the Committee and I associate myself with the comments made by the Mover and the proposer, suffice to know that I just want to make one clarification so that it is clear. As my colleagues have continually said, over time, we have developed a system of selling or buying items online with existing tax regime systems for local sellers in the digital markets yet we have lacked a mechanism to tax international companies and those that do not have a physical address in this country.

Therefore, the Value Added Tax (Digital Market Place Supply) Regulations 2020 is basically to rope in international players that had no way to include in the tax bracket. However, I need to make a very clear clarification that with COVID-19, there has been a proliferation of online digital learning and online digital material. When KRA and the various stakeholders appeared before us, they gave an assurance that educational materials for educational courses approved in this country are exempted from this type of VAT. I wanted to get that on record.

As I conclude, we have very many mechanisms to collect tax. The challenge will remain and will continuously remain on the capacity of the KRA to register and collect taxes. We do not have a shortage of tax laws or tax regimes, what we have is lack of ability by the KRA to collect tax. This is a tax system that has a lot of potential. The young people and international players will continuously innovate. We pray and hope that KRA and the National Treasury will put in place mechanisms to track innovations and the changes, so that at no single time do we lose this revenue especially from those who have no physical address in this country.

With those few remarks, Hon. Temporary Deputy Speaker, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): The last Member who has requested to speak to Motion No.11 is the Member for Masinga.

Hon. Joshua Mwalyo (Masinga, WDM-K): Thank you very much, Hon. Temporary Deputy Speaker, for the opportunity to air my views on the Value Added Tax (Digital Market Place Supply) Regulations 2020.

The VAT is an instrument that helps the Government to collect funds and it has not been very efficient. You find that there are some amounts that are not even remitted because they have not been added to the iTax. Therefore, the digital addition will rope in those who have been evading taxes, and are many. Some importers, especially international ones, do not even have the iTax systems. They are not included yet they sell online. You pay them via M-PESA and they deliver to your doorstep. We have been losing revenue and that is why we have no cash flow because very many people are trading, but are not paying taxes through the right channels.

Again, the local *mwananchi*, especially local contractors and importers, pay taxes at the entry. They pay VAT and even when they invoice, they invoice again with VAT. They end up paying double VAT, which they do not recover. When they ask for a refund, it takes eight months to a year and one does not have cashflow because they have already spent the money on the KRA.

So, this will help us have a level playing ground that all of us pay taxes and compete in the market place.

I support this Motion and the Government should hasten to implement it, so that we can get revenue for all the things that are imported into this country.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Member for Mwingi, did you indicate that you wanted to speak to Motion No.11 or 12?

Hon. Gideon Mulyungi (Mwingi Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. I had indicated that I wanted to speak to Motion No.12 that concerns my Committee, but now that you have given me this opportunity, I just want to concur with the rest of the speakers that, indeed, these are timely Regulations that are going to improve tax collection and to help people involved in the digital purchasing and supplying to contribute to payment of taxes, so that we can improve our revenue collection. I know some small business people may feel a little bit treated unfairly because they have been surviving by not paying taxes, but with the kind of economy that we have today, and given the cash flow problems that we have in this country, every sector or business must pay taxes so that we can pay for our development.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, there being no other requests, I call upon the Mover to reply.

Hon. Wambugu Munene.

Hon. Munene Wambugu (Kirinyaga Central, JP): Thank you, Hon. Temporary Deputy Speaker.

First of all, I sincerely thank all the Members who have contributed for their good comments and for unanimously supporting this Motion. Generally, these Regulations, as they have been discerned from the moving notes or from the support which was given through contributions, are meant to provide the legal framework for governing the use of tax registers. It basically seeks to enforce VAT compliance, minimise tax fraud and evasion and generally enhance the administration of VAT.

I also sincerely thank the Members of the Committee on Delegated Legislation for coming up with solid reports which have always invited support. The Committee has never lost any Motion. That shows it takes its work very seriously just like all committees of this House.

With those few remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Again, the Motion, having been moved, seconded, proposed, debated and replied to, I am not in a position to put the Question. I order that the Question to Motion No.11 on the Consideration of the Value Added Tax (Digital Market Place Supply) Regulations, 2020 be deferred.

(Putting of the Question deferred)

Next Order!

MOTION

FORMULATION OF PARLIAMENTARY BROADCASTING CHANNELS

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Let us have the Chairperson of the Committee on Parliamentary Broadcasting and Library.

Hon. Justus Kizito (Shinyalu, ODM): Hon. Temporary Deputy Speaker, I would like to seek your indulgence because of the gravity and the nature of the Motion I intend to move in the House. Because I think Members will have a lot of interest in this, I request if we could push it a head.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well, Hon. Justus Kizito. He is requesting that we defer Motion No.12. The reasons are convincing. He feels that his report, which is on the formulation of parliamentary broadcasting channels, needs more time due to the weight of the Motion. So, I grant you and I rule that Motion No.12 be deferred.

(Motion deferred)

Next Order is by the Chairperson of the Departmental Committee on Finance and National Planning.

MOTION

ADOPTION OF REPORT ON EFFICIENCY OF REVENUE ENHANCEMENT INITIATIVES

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to move the adoption of the Report of the Departmental Committee on Finance and National Planning on inspection visits to various KRA sites to check on the efficiency of the revenue enhancement initiatives that have been put in place over the years and whether they have actually resulted in revenue.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Wanga, are you moving or explaining?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Hon. Temporary Deputy Speaker, it was my understanding that I have been called upon to move. So, I should proceed and say that I beg to move the Report of the Departmental Committee on Finance and National Planning.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You know very well that we move adoption of reports by exactly reading or stating the terms: That this House adopts the Report of the Departmental Committee...

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): I beg your indulgence, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You should first move the Motion as it is in the Order Paper.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I am well guided.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): You also confirm that the two minutes that I have is enough for you to move.

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Because of the time limitation, I request your indulgence that we begin it afresh in a new session.

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The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): So, we defer because of the gravity?

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Yes. I wanted to start so that next time I am on the priority list, but because time is gone, let me request that we defer it.

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Very well. Hon. Wanga, Chairperson of the Departmental Committee on Finance and National Planning, given the time we have is one minute, has requested that we defer the moving of adoption of the report on the inspection visits to ascertain the impact on revenue enhancement initiatives on revenue collection. Also with an understanding of the time, I order that the same be deferred.

(Motion deferred)

Hon. (Ms.) Gladys Wanga (Homa Bay CWR, ODM): Much obliged, Hon. Temporary Deputy Speaker.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Jessica Mbalu): Hon. Members, the time being 9.00 p.m., this House stands adjourned until Tuesday, 30th March 2021 at 2.30 p.m. It is so ordered and I thank you.

The House rose at 9.00 p.m.