



ALN
KENYA

Anjarwalla & Khanna

LEGAL ALERT

Temporary Reduction of VAT on Selected Petroleum Products

April 2026

Introduction

On 14 April 2026, the Cabinet Secretary for the National Treasury announced the reduction of the rate of VAT applicable on certain specified petroleum products in Kenya.

The rate reduction was effected through two Legal Notices issued on 14 April 2026, as follows:

- (a) **Legal Notice No. 69 of 2026, Value Added Tax (Amendment of Rate of Tax) Order, 2026 (the Repealed Order)** issued pursuant to section 6(1) of the Value Added Tax Act (Cap. 476) (the VAT Act) reduced the rate of VAT from 16% to 13% on selected petroleum products for the period 15 April 2026 to 14 July 2026; and
- (b) **Legal Notice No. 70 of 2026, Value Added Tax (Amendment of Rate of Tax) Order, 2026 (the Order)** was subsequently issued pursuant to section 6(1) of the VAT Act, revoking the Repealed Order, and further reducing the VAT rate from 13% to 8% on the same selected petroleum products specified earlier, for the same period.

The Energy and Petroleum Regulatory Authority (EPRA) issued the monthly pricing review on 14 April 2026 following a sharp increase in landed petroleum costs. EPRA issued a further pricing adjustment on 15 April 2026, reducing the maximum retail pump prices following the issue of the Order.

This intervention forms part of the Government's effort to cushion consumers against escalating fuel costs driven by global price volatility. The measure is further supported by the drawdown of approximately KES 6.2 billion from the Petroleum Development Levy (PDL) Fund to stabilise pump prices.

Scope of the Order

The reduced VAT rate of 8% set out under the Order applies to the following products:

Tariff No.	Description
2710.12.20	Motor spirit (gasoline) premium
2710.19.22	Illuminating kerosene
2710.19.31	Gas oil (automotive, light, amber for high-speed engines)

The measure is product-specific and code-driven, requiring strict alignment with the Harmonised System (HS) tariff framework.

Legal Basis for the Order

Section 6(1) of the VAT Act empowers the Cabinet Secretary to vary the VAT rate by up to 25% of the rate prescribed under section 5(2)(b) of the Act. Section 5(2)(b) prescribes the standard VAT rate at 16%.

On that basis, the Cabinet Secretary may vary the rate by a maximum of 4 percentage points, resulting in a permissible range of 12% to 20%. Accordingly, the temporary reduction to 13% under the Repealed Order was within the statutory limit.

However, the further reduction of the VAT rate to 8% under the Order appears, on its face, to fall outside the permissible statutory range. A reduction from 16% to 8% amounts to a 50% decrease, which exceeds the 25% threshold permitted under section 6(1) of the VAT Act.

It may, however, be argued that the Repealed Order had already varied the applicable rate to 13%, such that the relevant base rate for purposes of the subsequent Order was 13% rather than 16%. Even on that view, a reduction from 13% to 8% represents a decrease of approximately 38.5%, which would still exceed the statutory threshold under section 6(1) of the VAT Act. On either analysis, therefore, there is a credible basis for questioning whether the Order falls within the scope of the Cabinet Secretary's delegated power under the VAT Act.

In an apparent effort to regularise the reduction of the VAT rate to 8%, the Value Added Tax (Amendment) Bill, 2026, was tabled before the National Assembly for on 16 April 2026 and proceeded through the First, Second and Third Readings, following which it was passed by the House. The President assented to the Bill on 17 April 2026, bringing it into force as the *Value Added Tax (Amendment) Act, 2026* (the Act). The Act, which applies retrospectively from 15 April 2026, has amended section 5 of the VAT Act by introducing

a new provision to reduce the VAT rate to 8% for a period of 90 days in respect of the specified petroleum products.

Other Fuel Types Not Covered

The provisions of the Act do not extend to several petroleum products, including:

Tariff No.	Description
2710.12.10	Motor Spirit (gasoline) regular
2710.12.30	Aviation Spirit
2710.12.40	Spirit type Jet Fuel
2710.19.21	kerosene type Jet Fuel
2710.12.50	Special boiling point spirit and white spirit
2710.12.90	Other light oils and preparations
2710.19.32	Diesel oil (industrial heavy, black, for low-speed marine and stationery engines)
2710.19.41	Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 125 centistrokes
2710.19.42	Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 180 centistrokes
2710.19.43	Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 280 centistrokes
2710.19.49	Other residual fuels

Practical Implications

From a legal and tax administration perspective, the key implication of the Act is that entitlement to the reduced VAT rate is determined strictly by tariff classification rather than by general product description, commercial understanding or public reporting. Accordingly, the critical issue for affected taxpayers is not merely whether a product is generally understood to be a petroleum fuel, but whether it falls within one of the precise HS tariff lines specified in the Order and is invoiced at the legally correct rate.

This gives rise to two principal areas of implementation risk. First, there is the technical classification risk inherent in a tariff-driven measure of this nature. Where a taxpayer applies the 8% rate to a product that does not properly fall within the listed tariff codes, that taxpayer may be exposed to an assessment for under-declared VAT, together with interest and penalties.

Secondly, a distinct area of risk would have arisen in relation to the applicable VAT rate, indicated as being 8% under the Order. As noted above, this reduction appeared to fall

outside the scope of the variance permitted under Section 6(1) of the VAT Act, thereby creating uncertainty as to its legal footing. This position is, however, clarified by the enactment of the Act which has provided the necessary legal basis for the 8% rate.

Contact Us

If you would like advice on how the VAT changes apply to your business, including the classification of specific petroleum products or the correct VAT treatment in particular cases, please do not hesitate to contact:



Daniel Ngumy
Managing Partner

daniel.ngumy@aln.africa



Kenneth Njuguna
Partner

kenneth.njuguna@aln.africa



Dennis Chiruba
Senior Associate

dennis.chiruba@aln.africa

Contributors

1. Cindy Mochere - Principal Associate
2. Collins Owino – Trainee Lawyer

The content of this alert is intended to be of general use only and should not be relied upon without seeking specific legal advice on any matter. For information on how we handle personal data, please see our [Privacy Notice](#).