

April 30<sup>th</sup>, 2018

The Clerk of the National Assembly,  
P.O. Box 41842-00100  
Nairobi, Kenya

**RE: STAMP DUTY EXEMPTION ON LAND LEASED FOR WILDLIFE  
CONSERVATION - TAX LAWS (AMENDMENT) BILL, (NATIONAL ASSEMBLY  
BILL No. 11 OF 2018)**

Following the call for submission of memoranda in the Matter of consideration by the National Assembly of the Bill mentioned in the subject matter above, published in the Daily Nation dated April 23<sup>rd</sup> 2018, the Kenya Wildlife Conservancies Association (KWCA) **HEREBY SUBMITS AS FOLLOWS:**

**1.0 Recommendation**

**KWCA on behalf of wildlife conservancies in Kenya request the government to specifically exempt stamp duty on leases registered for purposes of wildlife conservation.** The prohibitive cost of stamp duty on land registered for wildlife conservation is a major impediment to wildlife conservation in Kenya. The potential income to government from charging stamp duty on conservation leases is far outweighed, by the multiple benefits provided by landowners conserving wildlife through income tax from wildlife tourism, provision of space for wildlife, creation of employment to local communities and development of local infrastructure including schools, dispensaries and provision of water.

**2.0 Justification**

**2.1 Stamp Duty on Leases Registered for Wildlife Conservation**

Section 5 of the Stamp Duty Act Cap 480 (Rev. 2015) requires stamp duty to be charged on every instrument specified in the schedule to the Act whosoever executed for property situated in Kenya. The Act under section 117 provides the transactions to which stamp duty is exempted while Part IV identifies circumstances which relief is made to stamp duty liability.

Registration of leases is generally not tax exempt or relieved by the Act. In the fore-going, **leases registered to secure land rights for wildlife conservation are also subjected to stamp duty taxation.** The reforms in land laws and policies including the Land Act 2012, National Spatial Plan 2017 as well as the Wildlife Conservation and Management Act 2013 recognize wildlife conservation as a form of land use.

There are 160 wildlife conservancies spread across 28 counties in Kenya, majority of which have been developed through registration of conservation leases. The costs incurred to register conservation leases are exorbitantly high and prohibitive. The leases are long-term (15-25 years) and against large tracks of land (on average 12,000-14,000 acres). In 2017, the Maasai Mara Wildlife Conservancies Association registered 414 leases at the cost of 12, 447,000 Kshs to secure land for wildlife conservation through leases with the landowners.

## **2.2 Effect of Stamp Duty on Conservation Leases**

Considering that Kenya has lost over 68% of its wildlife in the past 40 years mainly due to habitat loss, and that community and private land host over 65% of Kenya's wildlife, it has become inevitable to safeguard land for wildlife conservation through registering land leases.

Subjecting stamp duty on land registered for wildlife conservation;

1. Increase the financial cost of conserving and managing wildlife on community and private lands notwithstanding that the landowners also struggle with other wildlife management costs with no budgetary support from government;
2. In the absence of donor funding or private individuals' goodwill to cater for the high stamp duty fees, the future of wildlife in Kenya is not guaranteed. Subsequently, government will



3. lose out income generated from wildlife tourism which contribute to the 9.9% of the country's GDP;
4. Discourages investments made to secure land for wildlife conservation thus the risk of conversion of Kenya's wildlife rich rangelands to other incompatible land uses;
5. Threatens the integrity of the rangelands through land subdivision to unsustainable parcels which not only fails to support wildlife existence but also threatens communities' livelihoods mainly pastoralism; and
6. Wildlife conservation will become an unsuitable land use option despite government efforts to incentivize communities and landowners to provide land for wildlife conservation in the midst of other competitive and beneficial land uses including agriculture and infrastructure development.

### **3.0 About Kenya Wildlife Conservancies Association (KWCA)**

KWCA is the national umbrella body of 160 community and private landowners who through wildlife conservancies, conserve and manage wildlife on their lands. KWCA registered in 2013, provides platform for communities and landowners to directly participate in wildlife governance in Kenya.

In taking this responsibility, KWCA partners with the government to enable landowners obtain incentives, benefits, enabling policy and support from the Government to cover for the huge cost of hosting wildlife on their land and for the opportunity lost for adopting conservation over other economic activities such as cultivation and livestock rearing.

Your kind Considerations will promote wildlife conservation and facilitate the growth of conservation in Kenya.



**Dickson Ole Kaelo,**

**Chief Executive Officer**

CC:

Commissioner General, Kenya Revenue Authority

Cabinet Secretary, Ministry of Lands and Physical Planning

Cabinet Secretary, Ministry of Tourism and Wildlife

Chair, National Land Commission

Director, Kenya Wildlife Service

Kenya Wildlife Conservancies Association  
Living nature, Living people