

April 30th, 2018

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

**RE: VAT EXEMPTION ON CONSERVATION FEE IN WILDLIFE CONSERVANCIES-
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 Newspaper dated 23rd April 2018, the Kenya Wildlife Conservancies Association (KWCA) **HEREBY SUBMITS AS FOLLOWS:**

1.0. Recommendation

KWCA on behalf of 160 wildlife conservancies in Kenya **seeks VAT exemption on conservation fee levied on guests and tourists visiting wildlife conservancies.** Section 5(2) of the VAT Act 2013 provides that VAT tax payable shall be zero per cent if the supply is zero rated or in any other case, sixteen per cent (16%) of the taxable value of the taxable supply. In the fore-going, conservation fee levied on guests visiting wildlife conservancies in Kenya is subject to 16% VAT as it is neither classified as VAT exempt nor zero rated in the VAT Act 2013.

VAT for entry fee in national parks and reserves is already tax exempted under section 24 of VAT Act 2013. The differentiated treatment of wildlife conservancies from national parks and national reserves is an oversight considering that conservancies are legally recognized as wildlife conservation areas under the Wildlife Conservation and Management Act 2013. Conservation fee is used by conservancies to support management of wildlife, employ conservancy rangers to support security for wildlife and guests and support social development including provision of water, health facilities, education and infrastructure development.

The above KWCA recommendation is in recognition that conservation fee was not subjected to tax until VAT Act 2013 and that:

1. Communities and landowners through conservancies have dedicated their lands to conserve wildlife with no monetary support from government;
2. Kenya is already perceived as an expensive tourism destination; conservancies are even made more expensive by the extra costs incurred by the communities and landowners to build infrastructure and provide security needed for both wildlife and tourists;
3. Conservation fee is used by conservancies to manage rangelands to ensure they are suitable to feed and maintain safety for wildlife, pay salaries for community wildlife rangers, build roads, and to create financial sustainability;
4. Conservation fee has been invested to fund majority of community projects including construction of classrooms, health clinics, water projects and other social projects;
5. That the tourism industry in conservancies already generate significant income to government through taxation on tourism services

2.0 Justification

2.1 Significance of Wildlife Conservancies to Economic and Social Growth

Wildlife conservancies cover 15 million acres, accounting for 11% of Kenya's landmass. The 160 conservancies that have developed in the last 20 years complement national parks and national reserves in providing habitats and dispersal corridors for the wildlife in the Maasai Mara, Tsavo, Amboseli, Laikipia and Northern Rangelands among other ecosystems. This is amidst the rapid land uses that are decreasing areas for wildlife, despite wildlife conservation being recognized as a land use by the national land and wildlife laws. Conservancies spread across 28 counties in the country have spurred economic growth especially in the marginalized areas of the country.

Through wildlife management and tourism investments made in conservancies, over 4,800 local community members are employed; and social developments including infrastructure, schools and

medical facilities have developed in the marginal areas. Between 2015-2016, investments made in conservancies to support social development amounted to Kshs 257 million and Kshs 71 million in Northern rangelands and Maasai Mara regions respectively. Conservancies have also boosted the country's tourism by hosting 142 tourism facilities with over 2,300 bed capacity. Among the rangeland communities, conservancies have managed to secure food security through programs that ensure sustained livestock across the year, notwithstanding the detrimental effects of climate change. While supporting over 700,000 households directly, conservancies have managed to boost local earnings among marginalized communities.

2.2 Effect of VAT on Conservation Fee

Conservancies largely rely on wildlife tourism to generate income to manage costs related to wildlife conservation. Conservation fee charged to tourists visiting wildlife conservancies is only source of reliable funds for the conservancies. Unlike national parks, conservancies landowners and communities solely bare the huge costs of managing wildlife despite it being a national heritage. Levying VAT on conservation fees disadvantages conservancies and places them at a less competitive advantage at a time when Kenya has lost more than half its wildlife mainly due to habitat loss. This threatens the tourism industry whose numbers have been on decline in the past years and whose contribution to the GDP is at 9.9% (Kenya Tourism Board 2015). It also disadvantages conservancies by increasing its management costs and lowering its competitive position with national parks and national reserves.

To spur economic growth, Vision 2030 anticipates diversification of tourism products and doubling of tourist numbers. With our parks and reserves only accounting for 35% of Kenya's wildlife, this important objective may only be achieved if the contribution by conservancies which manage 65% of the wildlife is harnessed. VAT on conservation fee for conservancies only works against Kenya's long term vision of a diverse and growing tourism industry as described in Vision 2030.

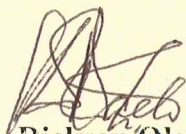
Subjecting VAT on conservation fee will;

1. Discourage the development and sustainability of conservancies since the tax will be a burden to most conservancies already struggling with a huge financial burden of management costs;
2. Increase conservation fee and subsequently lower tourist numbers and tourism income to communities, landowners and the government;
3. As a result of lower income from tourism, communities and landowners will resort to other land uses, threatening more unprecedented wildlife loss due to habitat loss;
4. The competitiveness of Kenya as a diverse tourist destination and the leader in citizen-led conservation will be compromised. More tourists will ship out to neighboring cheaper destinations which will compromise the country's target of attracting 3 million tourists per year by 2022.
5. Conservation will become a last land use option, some will collapse and new ones will not be created; and
6. The government will lose income from tourism on conservancy land when conservancies collapse or new ones are not established.

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.

Your kind Considerations will facilitate the growth of conservation in Kenya and economic development.



Dickson Ole Kaelo,

Chief Executive Officer

CC:

Commissioner General, Kenya Revenue Authority

Cabinet Secretary, Ministry of Tourism and Wildlife

Director, Kenya Wildlife Service

Parliamentary Budget Office

Kenya Wildlife Conservancies Association
Living nature, Living people