

Banks sue to fight 15 percent tax on hedging deals

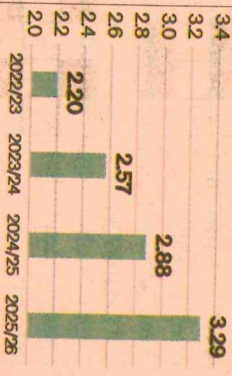
Sam Kiplagat

Commercial banks have moved to court to stop regulations requiring them to pay a 15 percent withholding tax on trading gains made from hedging contracts, opening a new battlefront with the taxman.

From January, the government required foreign investors who gain from hedges – contracts seeking to reduce risk in financial assets or commodities—made by local entities such

Ordinary revenue targets (Sh trn)

Treasury is banking on raising ordinary revenue to Sh2.57trn to finance the next budget



SOURCE: TREASURY

as banks and airlines to pay 15 percent tax on the gain.

But through a suit filed by the industry lobby, the Kenya Bankers Association (KBA), lenders say the Income Tax (Financial Derivatives) Regulations of 2023, which came into force on January 27, is illegal as it imposes the burden on Kenyan entities to calculate a non-resident person's gain with little, speculative or no information on the gain.

Banks engage in long-term foreign

currency-denominated borrowing that requires them to hedge against interest and exchange rate risk, while entities such as Kenya Airways hedge to cushion themselves against volatility in fuel prices.

The law requires that when a non-resident entity gains trading with a local firm, the Kenyan entity must account for the gain and remit a 15 percent withholding tax.

"The regulations are procedurally defective as the 1st

The value of cash handled by mobile-money agents registered its first quarterly drop in the three months ended March as small transactions dominated.

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