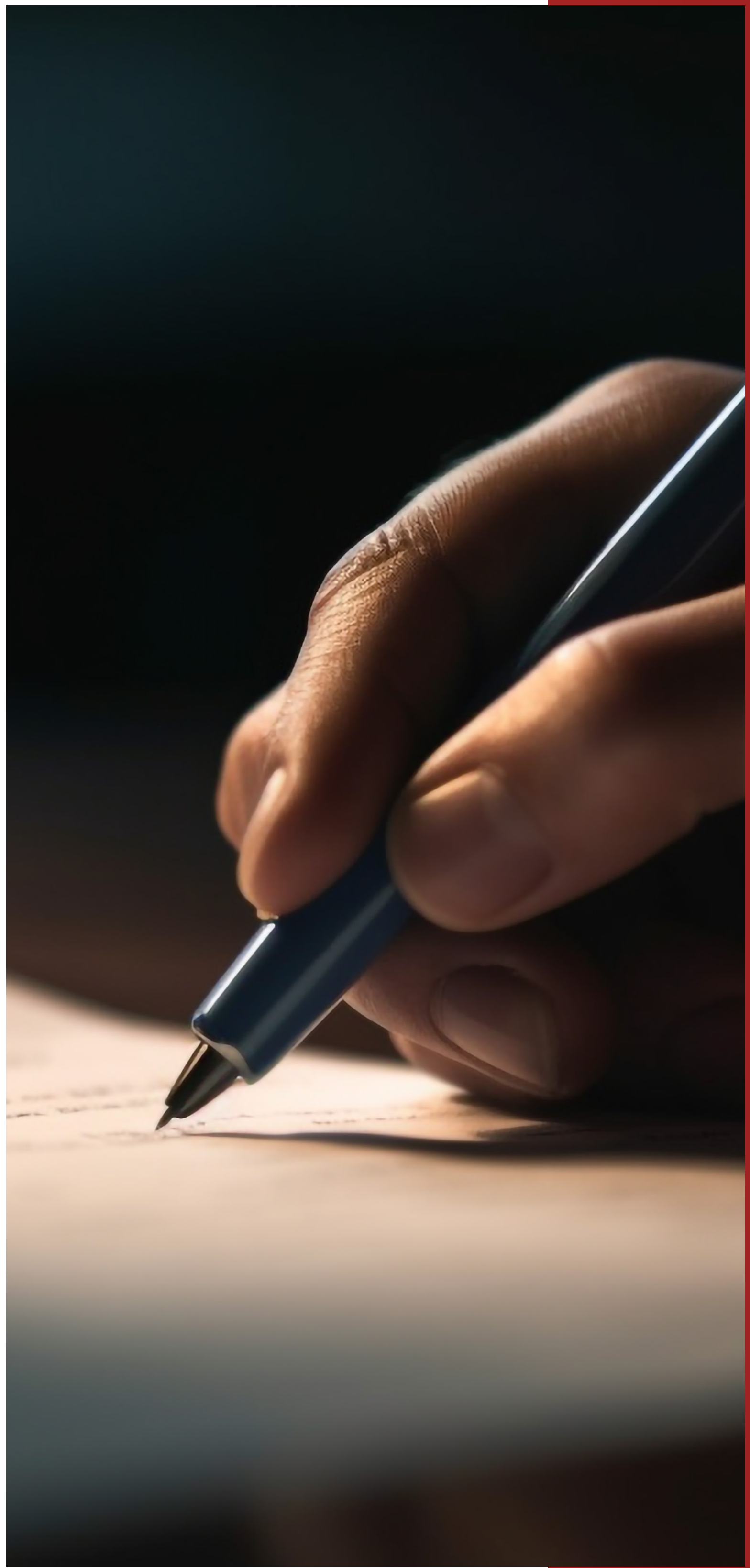
MWEBESA
LAW GROUP

MONTHLY

Newsletter

ISSUE 10
AUGUST 2025



MWEBESA LAW GROUP

Editor's Note August Edition

Welcome to the August edition of our newsletter.

Dear Esteemed Clients, Stakeholders and Readers,

As the summer heat peaks, the legal landscape remains as dynamic as ever, and this month's edition promises to sharpen both understanding and strategy. We explore topics that sit at the intersection of law, business strategy, and practical risk management.

First, we unpack the rights of the first loss payee, an often overlooked, yet strategically vital position in structured financing and insurance arrangements. You will gain insight into how prioritising recovery streams and aligning risk incentives can transform exposure into an asset. Our exploration goes beyond textbook definitions, illuminating practical drafting tips and comparative perspectives that underscore why first loss payeeship deserves a front-row seat in your next deal.

Next, we scrutinise the perennial debate around limitation of liability clauses: are they an indispensable risk-management tool or a potential loophole that undermines accountability? We dissect judicial trends, contractual nuances, and considerations from other jurisdictions. By weighing the fine line between protecting legitimate commercial interests and preserving equitable recourse, this article arms you with the analytical frameworks needed to craft clauses that withstand scrutiny and stand the test of time.

Finally, we turn to Tax Exemptions in Tanzania, providing a practical guide to understanding eligibility, navigating administrative hurdles, and how to enhance business sustainability and growth in light of such exemptions.

As usual, we invite your feedback, critiques, and case studies. Your contributions drive our collective growth. Stay curious, stay critical, and we will see you next month with fresh insights to navigate the evolving intersections of law, commerce, and policy.

Thank you for joining us on this intellectual journey.

Happy reading!

The Editorial Team
MWEBESA LAW GROUP

RIGHTS OF THE FIRST LOSS PAYEE IN INSURANCE: PROTECTION OR PITFALL

Introduction

Over the past two decades, Tanzania's insurance industry has transformed from a little-known financial service into one of the country's fastest-growing sectors, steadily weaving itself into the fabric of everyday life and national development. Liberalisation, technological innovation, and the introduction of diverse products have reshaped how Tanzanians perceive risk and protection. The sole purpose of insurance is to provide financial protection against risk. Insurance simply exists to restore the insured to the financial position they were in before the loss occurred. The rise of the insurance industry has culminated into a great demand of insurance policies to particularly mitigate the day-to-day risks that might affect people and their properties.

The concept of insurance was clearly defined in the case of Prudential Insurance Co. Vs Inland Revenue Commissioners [1904] 2 KB 658, where it was stated that a contract of insurance is one where one party (the insurer) promises in return for a money consideration (the premium) to pay the other party (the assured) a sum of money to provide him with a corresponding benefit upon the occurrence of one or more specified events. This principle remains the foundation of modern insurance law.

Within this framework, the "first loss payee sometimes refereed to as additional insured" clause has emerged as a common contractual feature, particularly in policies linked to financed assets such as vehicles, real estate, or machinery. While the term may appear straightforward, it raises important questions: Who qualifies as a first loss payee? What rights does this designation confer? And critically, does the clause operate as a shield of protection or a potential source of risk?

This article explores the rights of first loss payees and how the first loss payee clause in insurance contracts play a role as instruments of protection and inversely how the same clauses may be a dangerous pitfall.

Who qualifies as a first loss payee?

A first loss payee is a third party, often a lender, leasing company, or other financier designated to receive insurance claim payments before the policyholder in the event of loss or damage to the insured asset. This designation ensures that the first loss payee's financial interest is protected, especially when the insured property is used as collateral. The clause is typically found in policies covering financed property such as vehicles, equipment, or buildings. While the term itself may not be expressly defined in legislation, its operation is well recognised under general principles of the law of contract, assignment, and third-party rights in insurance.

At its core, the first loss payee clause is governed by contractual principles, meaning that the liabilities of parties to an insurance contract are determined by the scope of coverage and exclusions explicitly agreed upon. This clause designates a party, typically a lender, financier, or secured creditor who, by virtue of a contractual arrangement such as a loan agreement, is entitled to receive insurance proceeds first, up to the amount of their outstanding financial interest in the insured property.

What rights does this designation confer?

Functionally, the first loss payee clause acts as a safeguard for the financial interests of designated parties. By granting them the right to indemnification in the event of risks affecting the collateral, it ensures loan repayment even if the insured asset is damaged or lost. This clause not only mitigates credit risk but also enhances transactional security by prioritizing the loss payee in the distribution of insurance proceeds. It effectively shields lenders from having to compete with other creditors, thereby streamlining recovery and reinforcing the integrity of secured financing arrangements.

Accordingly, the enforceability of the first loss payee clause is rooted in the broader principles of contract law. As affirmed by the **Court of Appeal of Tanzania in Britam Insurance (Tanzania) Limited v BG Communication Limited (Civil Appeal No. 338 of 2024) [2025] TZCA 730**, insurance policies must be construed like any other contract. The court emphasized that "the policy of insurance evidences a contract and must therefore be construed like any other contract. The intention of the parties must be gathered in the first place from the words used in the policy, taking it as a whole and putting a reasonable construction on each clause." This reinforces the idea that clarity and precision in drafting are paramount, especially when delineating the rights of a first loss payee.

The principle of insurable interest further strengthens the legitimacy of the first loss payee clause. In **Lello Laurent Sawe v National Microfinance Bank PLC and Another (Civil Case No. 2 of 2019) [2024] TZHC 7754**, the High Court of Tanzania recognized the bank's insurable interest in the plaintiff's beverage business, noting that "the bank as a creditor had an insurable interest… as it was likely to suffer loss for non-payment of the loan amount in case the insured peril occurred." The court concluded that the bank was a proper insured party, as the insurance coverage directly related to the loan amount. This judicial endorsement underscores the clause's practical and legal relevance in protecting creditor interests.

Beyond case laws, statutory frameworks also reinforce the principle of protecting third-party interests in insurance proceeds. Section 10 of the Motor Vehicle Insurance Act, for instance, mandates that insurers satisfy third-party judgments even when the policy has been avoided or cancelled. This provision reflects a broader public policy trend aimed at safeguarding innocent or secured third parties who rely on insurance coverage, regardless of disputes between the insurer and the insured.

It is, however, essential to understand that the designation of a first loss payee (FLP) does not replace the policyholder in the insurance contract. The policyholder remains the primary insured party, retaining all rights and obligations under the policy, including the duty of disclosure, payment of premiums, and compliance with policy conditions. The FLP's rights are derivative, not independent that is they arise solely from the contractual arrangement granting them priority in payment. Unless expressly named as a co-insured, the FLP does not acquire the full status of an insured in their own right.

The first loss payee clause as an instrument of protection

Its primary function is to safeguard the financial interests of designated payees, most often banks, leasing companies, or other secured creditors by granting them priority in receiving insurance proceeds if the insured asset suffers loss or damage. This priority ensures that the lender's exposure is reduced or extinguished before any residual funds are released to the policyholder. In effect, it transforms the insurance policy into a form of contingent security, operating alongside the underlying loan or lease agreement.

From a commercial perspective, the clause mitigates credit risk by guaranteeing that, in the event of an insured peril, repayment will be sourced directly from the insurer rather than relying on the borrower's post-loss liquidity. This is particularly critical in high-value asset financing such as commercial fleets, industrial machinery, or real estate, where the destruction or impairment of the asset could otherwise jeopardise the borrower's ability to service the debt.

For policyholders, the clause can be a strategic enabler. Many lenders make it a precondition for financing, knowing it secures their repayment stream. By agreeing to it, borrowers may access more favourable loan terms, lower interest rates, or faster approvals. In **SM Holdings Ltd v NBC Ltd & Another (Commercial Case No. 134 of 2022) [2024] TZHCComD 192,** the court noted that the bank's loan issuance was contingent upon an insurance policy expressly naming the bank as the first loss payee, demonstrating how the clause can be a decisive factor in unlocking credit.

The first loss payee clause as a potential pitfall

Despite its protective function, the first loss payee clause is not without risks. For policyholders, the most immediate danger lies in the allocation of insurance proceeds. Because the loss payee is paid first, the insured may be left with insufficient funds to repair or replace the damaged asset, particularly if the payout is less than the outstanding loan balance. In such cases, the borrower remains liable for any shortfall, compounding their financial burden.

Moreover, first loss payees often retain significant control over claims decisions, including settlement terms, repair authorisations, or even policy cancellations. This can limit the policyholder's autonomy and delay recovery. Without careful negotiation and adequate coverage, what appears to be a protective measure can shift disproportionate risk onto the borrower.

On the other hand, the fact that the FLP does not replace the policyholder also means that the policyholder bears the full weight of compliance. If the insured breaches policy conditions, fails to disclose material facts, or allows the policy to lapse, the insurer may deny the claim entirely due to the policyholder's non-disclosure, misrepresentation, or breach of conditions, leaving both the policyholder and the FLP without recourse. The FLP's entitlement is contingent on the validity of the policy and the occurrence of a covered loss; it is not an absolute guarantee of payment.

This means that while the FLP clause prioritizes the lender in a valid claim, it does not shield them from the underlying risks of policy invalidation or insurer disputes. Lenders must therefore ensure rigorous monitoring of policy compliance and maintain safeguards, such as borrower covenants, to mitigate these exposures.

Best Practices

Both policyholders and designated first loss payees must exercise caution when dealing with First Loss Payee clauses in insurance contracts, as these provisions carry significant financial implications for both parties;

For policyholders, it is critical to thoroughly review all contractual terms, whether in loan agreements or insurance policies, before accepting a FLP clause. They must fully understand how claims will be processed and paid following a loss, ensuring they are not left without sufficient funds to repair or replace damaged assets. Additionally, borrowers should confirm that the insurance coverage is adequate to cover both the outstanding loan balance and the full replacement cost of the collateral, avoiding potential shortfalls.

For lenders, proactive risk management is essential. They should regularly verify policy details to ensure the FLP clause remains enforceable and that premiums are up to date. Financial institutions, in particular, should establish clear payout procedures with insurers to streamline claims settlements and minimize disputes. In high-risk lending scenarios, lenders may also need to implement additional safeguards, such as requiring collateral guarantees or supplementary insurance, to further secure their interests.

By taking these precautions, both parties can mitigate risks & ensure that first loss payee clauses function as intended, protecting lenders without unfairly burdening borrowers

Key Takeaways

After the discussion on first loss payee rights and whether they are instruments of protection or pitfalls the following are the takeaways for designated first loss payees, policy holders and insurance institutions;

i. First loss payee clauses protect financial interest of the first loss payees, especially when the insured property is used as collateral.

ii. This clause mitigates the risk, enhances security for financed transactions and prioritises the loss payee in the insurance claims mitigating the risk of competing with other creditors for insurance proceeds.

iii. The rights of the loss payee remain subject to the terms, conditions, and limitations of the policy.

iv. For Policyholders, the first loss payee clause facilitates access to financing, as many lenders require it as a condition for loan approval.

v. First loss payees often retain control over claims decisions, influencing settlements, repairs, or even policy cancellations, further restricting the policyholder's ability to recover.

vi. For policyholders, it is important to thoroughly review all contractual terms, whether in loan agreements or insurance policies, before accepting a First Loss Payee clause.

Conclusion

The First Loss Payee clause is a double-edged sword. For the designated first loss payee, it provides essential financial security, ensuring they are repaid even if the borrower faces a loss. However, for policyholders, it can limit financial flexibility and create dependency on lender-imposed insurance terms. Since insurance contracts are founded on strong foundations of transparency and negotiation, borrowers should fully understand the implications of FLP clauses, while lenders should balance risk management with fair terms. When structured properly, the FLP clause can be a valuable protection mechanism rather than a hidden pitfall.

A LIMITATION OF LIABILITY CLAUSE: A STRATEGIC COMMERCIAL TOOL OR A LEGAL LOOPHOLE?

When reviewing contracts, one clause that consistently stands out for its frequency yet is often misunderstood or overlooked, is the limitation of liability clause. Frequently dismissed as boilerplate, and at times deliberately used by suppliers or partners to deflect responsibility, it is in fact far more than fine print. When carefully negotiated, this clause becomes a powerful tool for allocating risk and shaping the commercial balance of a deal.

Its importance is such that limitation of liability provisions now sit alongside indemnities and force majeure clauses as standard features of modern contracts. They provide predictability in uncertain business relationships by capping damages, excluding certain losses, or narrowing remedies. Yet despite their ubiquity, they remain contentious. Some regard them as a rational means of balancing risk and pricing contracts, while critics view them as legal escape hatches, mechanisms that shield parties from accountability under the guise of contractual freedom.

This article examines that tension. Is the limitation of liability clause a legitimate instrument of risk management, or does it operate as a legal loophole that undermine fairness and responsibility? By exploring how these provisions are drafted, interpreted, and challenged, we assess whether their prevalence reflects sound commercial strategy or signals a need for sharper legal scrutiny.

In Tanzanian law, as in many other common law jurisdictions that uphold freedom of contract, this freedom is tempered by statutory controls, public policy considerations, and judicial oversight. Courts have consistently affirmed that limitation of liability clauses must be clear, unambiguous, and consistent with public policy. Clauses hidden in fine print or drafted in overly broad, sweeping terms are unlikely to be enforced. In assessing enforceability, courts consider the bargaining power of the parties, the precision of the drafting, and whether the clause reflects a fair & reasonable allocation of risk. This approach was clearly demonstrated in **Vodacom Tanzania Ltd v FTS Services Ltd (Civil Appeal No. 14 of 2016) [2019] TZCA 514 (27 December 2019)**.

The Court of Appeal examined whether the High Court had erred in failing to find that the arbitral tribunal had misapplied the principles established in **Antaios Cia Naviera v Salen Rederierna AB [1984] 3 All ER 229** when awarding damages that exceeded the limitation of liability clause in the contract.

In its judgment, the Court of Appeal quoted with approval Lord Diplock's observation in Antaios, noting that a "detailed semantic and syntactical analysis of words in a commercial contract, if it leads to a conclusion that flouts business sense, must yield to business common sense." The Court aligned with the High Court's reasoning that it defies commercial logic for a party to enter a contract obliging them to perform certain duties over a defined period, at a specific cost, with the expectation of receiving agreed returns, yet simultaneously be precluded from claiming compensatory damages upon early termination, irrespective of whether the termination was valid.

Definition

Limitation of liability clauses are rooted in the principle of freedom of contract, the idea that parties are at liberty to define the terms of their commercial relationship, including how risk and liability are allocated. A limitation of liability clause usually appears in simple terms within a contract. For example:

"The Supplier's total liability arising under or in connection with this Agreement shall not exceed an amount equal to the total fees paid by the Customer under this Agreement in the twelve (12) months preceding the event giving rise to the claim."

This kind of clause is generally considered fair and commercially sound. It gives both parties certainty about the maximum financial exposure, aligns liability with the value of the contract, and allows the supplier to price its services realistically without factoring in unlimited risk. In high-value or high-risk industries particularly Construction, Logistics, or IT services, such predictability is what makes projects feasible.

Such an outcome would be inconsistent with commercial reasonableness and the legitimate expectations of contracting parties. This underscores that limitation of liability clauses cannot be applied in a vacuum. Courts will interpret them in light of the overall contractual purpose, the conduct of the parties, and the commercial realities underpinning the agreement.

This insistence on clarity and precision in limitation of liability clauses reflects a broader legal and commercial imperative: parties must be able to identify, allocate, and manage risk with certainty, ensuring that contractual obligations and exposures are predictable and commercially sensible.

By contrast, a poorly drafted clause might read as follows:

"The Supplier shall not be liable for any loss, damage, or claim whatsoever arising from this Agreement."

This sweeping exclusion leaves the other party with no meaningful remedy and is the type of provision most likely to be struck down by courts or regulators.

STRATEGIC TOOL OR LEGAL LOOPHOLE?

As legal loophole:

While limitation of liability clauses can serve legitimate commercial purposes, their misuse exposes their darker side. In practice, these clauses often appear in standard-form contracts drafted by powerful entities for consumers or smaller businesses with little or no bargaining power, a classic "take–it–or– leave– it" a rrangement. In such contexts, the clause is no longer a tool for rational risk allocation; it becomes an instrument that shields the stronger party from the consequences of its own negligence or failure to perform.

The outcomes can be starkly unjust. Consider a small business that collapses because of a critical software failure, or a client left grappling with a defective construction project. Meanwhile, the liable party walks away having paid only a fraction of the loss, insulated by a contractual cap imposed without meaningful negotiation. In these scenarios, the clause does not balance risk, it transfers it unfairly, often to the most vulnerable party.

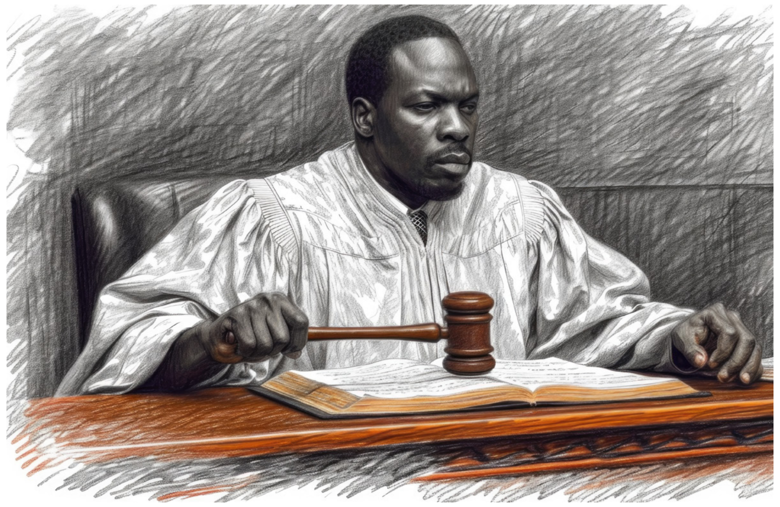
The moral hazard created is significant. When a party knows that its exposure is strictly limited, even in cases of gross negligence or fundamental breach, it may have less incentive to exercise due care or diligence. At this point, the clause stops being a commercial tool and becomes a shield for irresponsibility, undermining both accountability and fairness.

This tension between commercial utility and potential abuse underlines why courts and regulators impose limits. In Tanzania, statutory provisions such as Section 21 of the Fair Competition Act, 2003 ensure that liability cannot be excluded for unfair business practices, and Section 47 of the same act allows limited exclusions only if they are clear, justified, and not misleading. In the insurance sector, Section 135 of the Insurance Act, 2009 requires the liability cap to be specific and ascertainable at the time the contract is made, closing the door on vague or open-ended exclusions.

Enforcement mechanisms demonstrate the system's severity. Violations can trigger fines up to 20 million shillings, mandated demolition at owner expense, or even property confiscation. The STCDA possesses authority to intervene directly in cases of neglect, including seizing and renting out poorly maintained buildings to fund necessary repairs.

Other jurisdictions go further in spelling out what is acceptable. In the United Kingdom, the Unfair Contract Terms Act, 1977 imposes a statutory "reasonableness" test. Under this test, clauses excluding liability for death or personal injury caused by negligence are automatically void, while others must pass a fairness assessment. Courts ask whether the term was freely negotiated, whether the parties had equal bargaining power, and whether the clause genuinely reflects the risks each side agreed to bear.

In short, when these clauses are drafted or applied to protect the dominant party at the expense of fairness, they move beyond risk management and function as a legal loophole, a mechanism that can perpetuate injustice rather than facilitate commerce.



From a commercial perspective, limitation of liability clauses are not inherently sinister. They allow parties to rationally allocate financial exposure in line with the value of the contract, the degree of control each party has over potential risks, and the availability of insurance. Consider their impact in sectors such as construction, energy, logistics, or IT, where the potential for catastrophic loss is very real. Without liability caps, no rational contractor, service provider, or supplier would undertake complex projects without either charging prohibitive prices or declining the work altogether. By fixing a ceiling on liability, the clause transforms an unquantifiable risk into a calculable cost of doing business. It is not the avoidance of risk; it is the conversion of risk into certainty.

This is why insurers rely on these clauses, and why businesses incorporate them as standard. They do not transfer risk away, they discipline it. A supplier who agrees to a cap can price his services competitively, knowing that exposure will not exceed a defined maximum. A client, on the other hand, gains clarity about the remedies available and is compelled to consider insurance or other protections for losses beyond the cap. The result is not one party escaping consequences, but both parties sharing them in a structured, foreseeable manner.

When negotiated between sophisticated parties, limitation clauses reflect conscious commercial trade-offs. International practice reinforces this rationale. A contractor may accept liability up to a fixed percentage of the contract price, as in the FIDIC 1999 Red Book, but with carve-outs for fraud, deliberate default, or reckless misconduct. This ensures that liability for egregious conduct remains uncapped, while still shielding the contractor from disproportionate claims that could cripple its operations. The same logic underpins the Warsaw Convention of 1929 and its successors, which imposed strict liability limits on international air carriers. By capping damages for lost baggage or passenger injury, the Convention created predictability that allowed the aviation industry to expand globally, while still protecting passengers through defined compensation.

It follows that a limitation of liability clause is not a device to escape consequences but a mechanism to define them with clarity. At its best, it operates as a pricing tool anchoring risk to value, aligning liability with commercial realities, and creating the certainty on which modern business depends.

Conclusion

Ultimately, the characterization of a limitation clause hinges on context: its negotiability, the relative sophistication of the parties, the nature of the potential risks, & the conduct it seeks to shield. A fairly negotiated cap between sophisticated commercial entities is a strategic tool essential for market function. The same clause, buried in the fine print of a consumer agreement and used to escape liability for a fundamental failure, is rightly condemned as an exploitative loophole. The law often reflects this dichotomy, typically enforcing reasonably negotiated commercial caps while subjecting those in consumer contracts to greater scrutiny and potentially refusing to enforce them in cases of fraud, wilful misconduct, or gross negligence.

TAX EXEMPTION REGIME IN TANZANIA: LEGAL AND PRACTICAL CONSIDERATIONS THAT INVESTORS NEED TO KNOW.

In the words of Yair Aharoni (1966), ***"Tax exemption is like a dessert; it is good to have, but it does not help very much if the meal is not there.'"***

In Tanzania's evolving investment landscape, tax exemptions have become a cornerstone of fiscal policy. As defined by Kitime and Mwamlangala in Laws of Taxation in Tanzania, tax exemptions refer to reductions or eliminations of taxes ordinarily imposed on individuals and enterprises, encompassing customs duties, value-added taxes, excise levies, and other fiscal charges. Each category comes with specific eligibility criteria, application procedures, and post-grant compliance obligations.

These exemptions are designed to stimulate strategic sectors, attract foreign investment, and catalyse economic growth. Yet, no matter how generous, they cannot substitute for sound business fundamentals. Without a viable business model, proactive tax planning, & regulatory alignment, such exemptions provide little practical advantage.

This paper examines Tanzania's tax exemption regime through both a legal and practical lens, focusing on what investors need to know to navigate it effectively. We begin by outlining the statutory foundations and institutional frameworks governing exemptions, then analyse the eligibility requirements, procedural steps, and compliance obligations that shape investor experience. Drawing on comparative insights and recent reforms, we also identify strategic considerations for businesses seeking to leverage fiscal incentives without compromising legal integrity or operational sustainability.

Legal foundations & institutional framework

Tanzania's tax exemption regime is anchored in a combination of investment, revenue, and sector-specific legislation, each defining the scope, eligibility, and administration of fiscal incentives. The key legal instruments include:

1. The Value Added Tax Act, 2014 – Section 6(2) empowers the Minister responsible for Finance to issue VAT exemptions on imports or domestic supply, as specified in orders published in the Gazette.
2. The Income Tax Act, 2019 – Section 10 allows the Minister responsible for Finance to grant income tax exemptions on specified incomes or classes of income accrued in or derived from the United Republic, through orders published in the Gazette.
3. The East African Community (EAC) Customs Management Act, 2019 – Parts A and B of the 5th Schedule outline types of goods eligible for tax exemptions across various sectors, including hotel, tourism, and industrial sectors. Certain exemptions under this Act are available to the general public, not limited to registered investors. Notably, amendments to the EAC Customs Management Act require approval from the EAC Council of Ministers, reflecting the regional dimension of customs-related exemptions.

In addition to the primary statutes outlined above, several other laws play a significant role in shaping Tanzania's tax exemption landscape:

1. The Tanzania Revenue Authority Act, Cap 399 R.E. 2019 – Governs tax administration and enforcement.
2. The Customs (Management and Tariff) Act, Cap 403 R.E. 2019 – Provides the framework for customs duties, exemptions, and tariff management.
3. The Excise (Management and Tariff) Act, Cap 147 R.E. 2019 – Regulates excise duties & related exemptions.
4. The Tanzania Investment and Special Economic Zones Act, 2025 (TISEZA) – Establishes special economic zones and associated fiscal incentives, including tax exemptions for qualifying investors.
5. The Mining Act, Cap 123 R.E. 2019 – Contains sector-specific tax exemptions and incentives for mining enterprises.
6. The Tourism Act, No. 28 of 2008 – Offers targeted exemptions and incentives for investments in the tourism sector.

Collectively, these statutes establish both the legal authority and the institutional mechanisms necessary to administer tax exemptions. They define who qualifies, what incentives are available, and how compliance is enforced, providing companies with a predictable framework for planning and executing investments while ensuring alignment with national and regional fiscal objectives.

Eligibility

Exemptions are not granted arbitrarily; they are guided by principles of public benefit, strategic economic growth, and international obligations. Here are some of the cases eligible for exemptions;

Category	Example/scope	Legal / policy basis	Rationale
TICEZA Certified investors	Export-oriented companies operating in Export Processing Zones and Import of capital goods, equipment, or inputs for approved projects	The Investment and Special Economic Zones Act, 2025	Stimulate foreign investment, promote exports, create jobs, boost long-term tax revenues, reduce upfront investment costs, encourage capital-intensive projects and facilitate economic growth.
Infrastructure and utility projects	Roads, power plants, water systems, and essential public services	Sector specific approvals	Support strategic development projects, enable public service delivery, and attract private participation in infrastructure
Donor-Funded & Technical assitance projects	Aid-funded initiatives, development programmes, technical cooperation	Ministry approvals	Enable NGOs, international agencies, and charities to operate efficiently, delivering societal benefits without profit motive
Religious and charitable institutions	Imports under Treasury Voucher System	Ministry of Finance	Enable charities and religious organizations to deliver social services, education, and humanitarian aid effectively
Mining and extractive projects	Equipment and inputs after first anniversary of commercial production	Mining Act/ TIC	Encourage investment in extractives, ensure operational continuity, and support sector growth
Public welfare goods	Human & veterinary medicines, firefighting vehicles, essential socie-tal goods	VAT Act & Income Tax Act	Increase accessibility to critical goods, promote public health and safety, and maximize societal benefit
Oil, gas and geothermal exploration	Specialized equipment and inputs for exploration	TIC/Ministry approval	Stimulate energy exploration, technological development, and strategic sector growth

Key challenges in the tax exemption regime

Despite their intended purpose, the administration and implementation of tax exemptions in Tanzania face several persistent challenges that limit their effectiveness and predictability.

1. **Institutional overlaps and bureaucratic delays**

Perhaps the most glaring weakness in Tanzania's exemption regime is the needless duplication of approvals among government institutions. Even where the Tanzania Investment Centre (TIC) has lawfully granted an exemption, the TRA will routinely subject the very same request to a separate round of verification. Both are State organs ostensibly serving a common policy objective, yet they operate in silos that force applicants to repeat processes with no added legal or administrative value. This inefficiency is compounded by the rigid requirement that exemptions be confirmed through Government Notices (GNs) issued by the Minister of Finance before they acquire legal force. In practice, the issuance of GNs is plagued by chronic delays, often stretching months, in some cases years, with some published only once annually. The absence of statutory timelines or any obligation for concurrent processing leaves applicants' hostage to open-ended bureaucracy, undermining confidence in government undertakings. The result is a system that promises facilitation but in reality, obstructs it, eroding the credibility of exemptions as a policy tool and placing businesses, NGOs, and development partners in avoidable legal and financial limbo.

2. **Lack of clear communication and investor awareness**

Although the TIC maintains an approved list of deemed capital goods for different sectors of the economy, this information is not consistently or effectively communicated to investors. Many investors remain unaware of the specific tax items eligible for exemption and, as a result, investors are being misled, either due to misinformation or misinterpretation of the law. This lack of clarity not only imposes additional costs on investors but also increases the risk of non-compliance or rejection of exemption applications.

3. **Rejection of requests without transparency**

Another source of frustration is the rejection of exemption applications without transparent justification. Whether involving private investors seeking relief on capital goods, NGOs importing project supplies, or public entities procuring essential equipment, applicants have reported instances where items are disallowed without explanation. The absence of clear criteria or feedback not only reduces predictability but also gives disproportionate discretion to tax authorities, eroding trust in the process.

4. **Legislative uncertainty**

Another major weakness of the exemption regime lies in its lack of predictability. Tanzania's annual Finance Acts frequently amend the Income Tax Act, VAT Act, and Customs Act, often altering the scope of available exemptions. These amendments are sometimes applied with retrospective effect, unsettling projects that were structured under earlier legal frameworks. This forces investors, NGOs, and development partners to continually reassess eligibility midstream, as sunset clauses are shortened or sectoral lists are revised without sufficient transition measures. The absence of stability undermines long-term planning and creates a regulatory environment in which exemptions cannot reliably be factored into project financing, procurement, or contractual commitments. Instead of providing certainty and facilitating investment, the system subjects stakeholders to shifting goalposts that compromise confidence in Tanzania's tax framework.

Practical recommendations for navigating Tanzania's tax exemption regime

To maximize the benefits of tax exemptions while minimizing administrative and legal risk, businesses should consider the following strategies:

1. **Initiate early dialogue**

Engage TICEZA, TRA, and relevant sector regulators at the project conceptualization stage. Early discussions help clarify eligibility, identify necessary approvals, and secure preliminary rulings before significant investments are made. This proactive approach reduces the risk of delays or disputes later.

2. **Conduct legal and sectoral due diligence**

Verify that your proposed activities align with sector-specific eligibility criteria and statutory requirements. This includes reviewing TIC certificates, sectoral regulations, and relevant Acts to ensure your project qualifies for exemptions before making commitments.

3. **Retain specialist expertise**

Engage advisors with deep experience in Tanzanian tax and investment law. Tax counsel, corporate finance advisors, and sector specialists can navigate procedural nuances, interpret complex regulations, & provide strategic guidance on maximizing incentives while mitigating risk.

4. **Implement robust record-keeping systems**

Maintain detailed records of all imports, expenditures, tax filings, and approval documents. Develop an integrated compliance register to track import approvals, invoices, certificate renewals, and GN issuance. Leverage cloud-based or integrated document management systems to streamline record-keeping, automate reporting deadlines, and facilitate audits. This approach enhances transparency, reduces errors, ensures timely compliance, and strengthens your position in the event of audit and disputes.

5. **Monitor regulatory and policy developments**

Legislation and administrative guidelines are frequently updated. Regularly track changes through TRA and TIC bulletins, government gazettes, and industry forums. Staying informed allows businesses to anticipate changes, adapt operations, and maintain uninterrupted compliance.

Conclusion

Tanzania's tax exemption regime is a strategic tool to incentivize investment, support development, and advance societal benefits. While exemptions can reduce costs and stimulate growth, navigating the system requires awareness of approval processes and evolving legislation. Businesses that plan proactively, maintain robust compliance systems, and engage with the right advisors can turn these incentives into tangible benefits. Ultimately, success lies in combining legal understanding with practical execution, ensuring exemptions drive both efficiency and sustainable growth.

DAR ES SALAAM (HQ)

House No. 113, Plot No. 948,
Chole Road, Masaki
P. O. Box 23077
Dar es salaam, Tanzania

ZANZIBAR BRANCH

Block 024, Plot No 55
Mbweni Road, Mazizini, Unguja
Zanzibar, Tanzania

For more information:

Phone: +255 767 348 716 / +255 742 812 125
+255 716 955 304

Email: info@mwebesalaw.co.tz

www.mwebesalaw.co.tz