

Tax Management Controls: Solution to Corruption in the public sector (CASE STUDY)

THEME: TAX TRANSPARENCY FOR ACCOUNTABILITY AND SHARED PROSPERITY



Anti-corruption efforts often attempt to create an ethical standard by which individuals are supposed to abide, ignoring the fact that if such officials were moral beings, the corruption would not occur in the first instance.

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Session Objectives

- **Be able to define Fraud & Corruption**
- **Understand Tax Fraud & Corruption Impact to public sector**
- **Understand weakness for corruption to thrive**
- **Apply tax management controls as a solution to curbing corruption in the public sector.**

Introduction & Definitions

What is Corruption

1. A common definition of public corruption is the misuse of public office for private gain. Misuse, of course, typically involves applying a legal standard.
2. Corruption defined this way would capture, for example, the sale of government property by government officials, kickbacks in public procurement, bribery and embezzlement of government funds.
3. Corruption is an outcome—a reflection of a country's legal, economic, cultural and political institutions. Corruption can be a response to either beneficial or harmful rules.

R. Klitgaard postulates that corruption will occur if the corrupt gain is greater than the penalty multiplied by the likelihood of being caught and prosecuted:

$\text{Corrupt gain} > \text{Penalty} \times \text{Likelihood of being caught and prosecuted}$ - source : Wikipedia

Introduction & Definitions continued”

- ❑ Tax evasion is the illegal understatement of taxes by individuals, corporation and trusts.
- ❑ Evasion is an illegal concealment of taxable economic activities altogether if discovered and convicted the taxpayer has not only to pay the evaded taxes, but also a fine, or have even to face being sentenced to jail.
- ❑ Tax evasion Corruption offshoot as a form tax evasion “illegal too” where dishonest tax inspectors require to be bribed to avoid reporting understated taxes to their superiors; this is corruption.
- ❑ Tax evasion extortion is where Corrupt tax officials ask taxpayers to be paid a bribe to induce them to abstain from reporting wrong taxes to their superiors;

Case Study 1 –KRA 2009 in the News

KRA sacks 70 employees in corruption purge

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Tax payers fill Kenya Revenue Authority forms. Photo/FILE

By GEOFFREY IRUNGU

Posted Tuesday, October 20 2009 at 00:00

Case Study 2–KRA 2014 in the News

KRA employees' lifestyles to be put under radar in war on graft

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Times Towers, Kenya Revenue Authority headquarters. The lifestyle audit will seek to evaluate an individual's lifestyle vis-a-vis remuneration to detect any inconsistencies in how they acquired their wealth. PHOTO | FILE | NATION MEDIA GROUP

Case Study 3.....- Discussion – NCC May 2013

Source : *The Standard*

- Nairobi County government is losing Sh250,000 daily in car parking fees through corruption and inefficient staff- The standards Thursday, May 16th 2013

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- Senior officer owning street
 - Attendant pocketing collection
 - Illegal Matatu parking bay (against bylaws)-Latema

Case Study 3 Conti.... for Discussion – NCC May 2013

Source : The Standard

- Corrupt tax officials co-operate with the taxpayers who intend to evade taxes. When they detect an instance of evasion, they refrain from reporting it in return for bribes .
- Corruption by tax officials is a serious problem for the tax administration in many less developed countries

Case study 3 Conti... 2014 NCG in Daily Nation News

DAILY NATION



POSTED WEDNESDAY, JANUARY 15, 2014

Nairobi's parking revenue doubles to Sh130M monthly

Parking fees revenue in Nairobi has doubled in the last eight months even as the county plans to



Cars at a parking lot in the city centre, Nairobi. Photo/File

Case study 3 Conti... 2014 NCG

- Digitized Parking fees collection for CBD
- Increase from 63 million in April last year to the current Sh130 million.

A Case 4 -Fraudulent Trade Transactions

Fraudulent Trade Transactions Channeled at Least US\$60.8 Billion Illegally in or out of 5 African Countries from 2002-2011

Tax Loss from Trade Misinvoicing Potentially at 12.7% of Uganda's Total Government Revenue, followed by Ghana (11.0%), Mozambique (10.4%), Kenya (8.3%), & Tanzania (7.4%)

COPENHAGEN, Denmark / WASHINGTON, DC – The fraudulent misinvoicing of trade is hampering economic growth and potentially resulting in billions of U.S. dollars in lost tax revenue in Ghana, Kenya, Mozambique, Tanzania, and Uganda, according to a new report [[HTML](#) | [PDF](#)] published Monday by Global Financial Integrity (GFI), a Washington DC-based research and advocacy organization. The study—funded by the Ministry of Foreign Affairs of Denmark—finds that the over- and under-invoicing of trade transactions facilitated at least US\$60.8 billion in illicit financial flows into or out of the five African countries between 2002 and 2011.

Source: Global Financial Integrity (GFI) a non-profit, Washington, DC-based research and advisory organization

Case study 4 Conti ... -Kenya-From 2002-2010

- US\$9.64 billion flowed illegally out of the country due to trade mis-invoicing;
- US\$3.94 billion flowed illegally into the country due to trade mis-invoicing;
- US\$13.58 billion in illicit capital flowed either into or out of the country;
- Gross illicit flows were pegged at 7.8% of the country's GDP;
- Gross illicit flows were twice the ODA provided to the nation;
- The under-invoicing of exports amounted to US\$9.26 billion;
- The under-invoicing of imports amounted to US\$3.94 billion;
- Tax revenue loss from trade mis-invoicing potentially totaled US\$3.92 billion, averaged US\$435 million per year;
- Tax revenue loss from trade mis-invoicing roughly equaled 8.3% of total government revenue.

Case study 4 Conti ... -Kenya-From 2002-2010- Recommendations

1. Significantly boost their customs enforcement, by equipping and training officers to better detect intentional misinvoicing of trade transactions;
2. Trx relating to tax haven jurisdictions be more scrutinized
3. Create central, public registries of meaningful beneficial ownership information for all companies formed in their country to combat the abuse of anonymous shell companies;
4. Ghana, Kenya, Mozambique, Tanzania, and Uganda should actively participate in the worldwide movement towards the automatic exchange of tax information as endorsed by the G20 and the OECD;
5. Kenya and Uganda should follow the lead of Ghana, Mozambique, and Tanzania in joining and complying with the Extractives Industry Transparency Initiative (EITI); and

Factors which enable/optimize occurrence of corruption:

- *Nature of the work performed:*
 - Discretion exercised by position
 - Position in organisation
 - Service associated with delays
- *Working conditions*
 - The role of salary and its relationship to need
 - Lack of benefits for remaining with employer
 - Employee dissatisfaction
 - Work pressures
- *Individual histories and dependencies*
 - Ethical decision making history
 - Dependence on employer
 - Dependence on alcohol, drugs and gambling

Factors which enable/optimize occurrence of corruption

- *Organisational culture:*
- Unclear messages about what is acceptable; Attitudes of colleagues; Example set by management;
- Lack of reinforcement of ethical behavior; Other workplace practices.
- Lack of controls
- *Failure to identify the behavior as wrong*
- *Other factors which affect taking action about corruption*
 - Individual beliefs

Impact Of Fraud and Corruption

1. Undermines development,
2. Causes severe distortions to resource allocations and
3. Contributes significantly to the continuing grip of debilitating poverty over millions.

World Bank: Six Strategies to Fight Corruption

- Paying public servants well
- Creating transparency and openness in government spending
- Cutting red tape
- Replacing regressive and distorting subsidies with targeted cash transfers
- Establishing international conventions
- Deploying smart technology

Tax Management Key Control points

Corruption control and prevention strategies are the first line of defense and provide the most cost-effective method of controlling fraud within an entity.

- Risk management is crucial.
- Policy statement assists employees.
- Determining a 'fit for purpose' approach to managing risks
- Providing information to employees and customers.
- A separate risk assessment and fraud control plan can be considered
- Large or high-risk programs focus in order to address the risk applicable to the program.

1. *Effective governance* functions help organizations accomplish their business goal
2. Right *environment* underscore the growing importance of *effective* governance and *establishing*, maintaining and improving governance, risk management.
3. Governance require and effective and independence Assurance *established* by the organizational and reporting structure..

General controls

- As is increasingly being recognized, the disabling weakness of an exclusive reliance on process interventions to combat corruption is that it presupposes that exhortation and moral suasion will be sufficient to transform the behavior of both public officials and citizens.
- Some are quick fix measures or moralizing campaigns that fail to focus on institutionalizing structural reforms or establish durable and lasting legitimate political processes.
- The effectiveness of efforts to combat corruption depends at least as much on the quality of the core public institutions and processes.
- The famous formula for corruption is an economic analysis of corruption that identifies three “ingredients” of corruption “monopoly + discretion – accountability”

Tax Management Controls

1. Accountability through transparency (access to information)
2. Focus on prevention rather than enforcement
3. Appropriate Assurance and legal regimes
4. Raise awareness and expectations of civil society
5. Focus on results-oriented service to the public
6. Develop the capacity of “Pillars of Integrity” to fight corruption
7. Training & Educations

Arrangements for Combating Corruption

- The table distinguishes between the three central elements of the fight against corruption – prevention, detection, and enforcement. As the first row of the table highlights, core public institutions play a central role in all three.
- Corruption prevention is advanced through institutionally structured check and balance arrangements, supported by transparency.
- Corruption detection is advanced through governance structures which oversee how public resources are used, combined with policing and prosecutorial services which investigate criminal activity.
- Anti-corruption enforcement is the responsibility of the justice system.

Conclusion

- Corruption in tax administration in Africa remains a fundamental barrier to development.
- Approaches to fighting corruption include measures to enhance the autonomy and capacity of tax agencies, for example through the establishment of semi-autonomous tax agencies, higher salaries, measures to improve tax services and reduce tax-payers interactions with tax officials, by for instance investing in technology and tax-payer education, as well as measures to improve internal control and oversight and encourage informants to report corruption

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Educational Qualifications

- MBA –Finance with Merit
- Diploma in Business Management
- Diploma in IT Application & Systems
- Diploma in Data Processing Management
- Diploma Legal Studies
- Diploma Project Management

Professional Qualifications

- Certified Internal Auditor -CIA
- Certified Fraud Examiner-CFE
- Certified Governance Risk and Compliance Professional –GRCP
- Certified in Risk and IT controls-CRISC
- ACCA Part Qualified

Experience

- Independent Consultant-Jan 2013 to date
- Senior Manager –GRC @ PwC - Jan 2012-13
- Risk Management Specialist –Globacom Nigeria-Aug-2009-Dec 2011
- Manager- Risk, Fraud and Revenue Assurance –Essar -July 2008-August 2009
- Risk Analyst –Zain Kenya -2000- 2008
- Co-Founder of ACFE Kenya Chapter and GARP Kenya Chapter
- Business Development -KPLC 1997-2000
- Temporary Employments-1994-1997
- Various Vocation, Business Advisory and Training

Language skills:

- English (Fluent)

Profile brief

A Risk Expert with multinational experience having undertaken Assignment in Nigeria, Benin and Ghana (West Africa) Zambia and Malawi, and South Africa (South Africa) Afghanistan (Central Asia) and Kenya providing risk centric Business Advisory and Capacity Building through training.

Previously was a Senior Manager in Governance Risk and Compliance (GRC) Business at PwC, dedicating 17 years of Risk Management, Mobile Financial services, Revenue Assurance, Corporate Fraud Management and Business Development. Having been involved in setting up Risk & Control functions, expertise in Internal Audits, ERM, Tele-Banking services (Mobile money services) and Fraud governance plus has been involved in successful multiple Project Risk Assurance/Product Assurance provides a distinctive wealth of knowledge

He is founding secretary of the Local Chapter of Risk Management Professionals –GARP Kenya and pioneer board member and first training Director of chapter of Fraud Examiners -ACFE Kenya and has been instrumental in creating Fraud fighting capacity for Kenya. Other Key experience include Auditing for Fraud, Project Management and Risk and Fraud Management Training

Key expertise

Risk Management

- Enterprise Risk Management (ERM)–ISO 31K/COSO /Basel III/Risk IT/SOX /GRC Capability
- Fraud Analysis for Investments, Integrity system set up and review, Fraud Health & policy design, Fraud Risk Assurance (Assessments, Examination and Prevention /Fraud Training)
- Revenue, Projects and product Assurance
- Internal audit, BCM, CMMI, IT Risk, IT policy development and process reviews

Business

- Business Development, Strategy & Financial Mgt, Entrepreneurship and Business Training
- Tele-Banking Service and Customer Services

Technology capabilities :

- Platforms: MS Windows 2000/XP/7 |Development: Foxpro/VB/Dbase | ERPs: Oracle, SAP
- Productivity Tools: MS Office Suite/SQL /Visio/CRM's /FMS's and RAM's /QuickBooks/Sage/CAATS

Methodology: Transform and Change Management/Global IAS/BCM/ERM/GRC Methodologies

Questions & Answers

If you can't explain it **simply**, you
don't understand it well enough.

— Albert Einstein

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Thank you