



# ICPAK BUDGET REVIEW SEMINAR 2016

## ICPAK SCORE CARD ON BUDGET SUBMISSIONS

Friday, 17<sup>th</sup> June 2016

*Presented by Naomi Rono*

ICPAK – Public Policy and Governance Department

# OUTLINE



Overall Budget Process

ICPAK engagement with Policy Makers

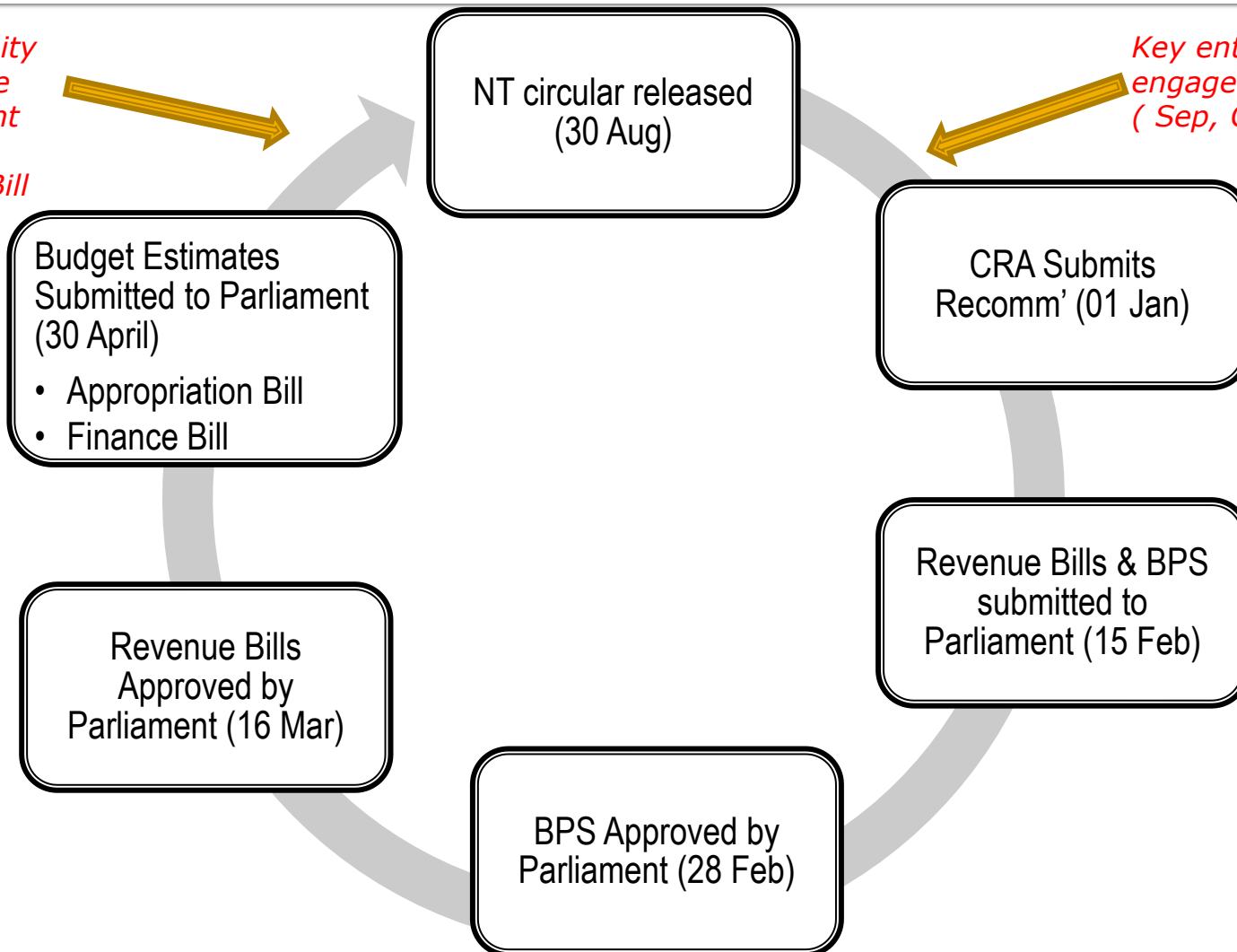
Framework of ICPAK submissions 2016

Indicative Performance

- Income Tax
- VAT
- Customs & Excise
- Tax Procedures Act

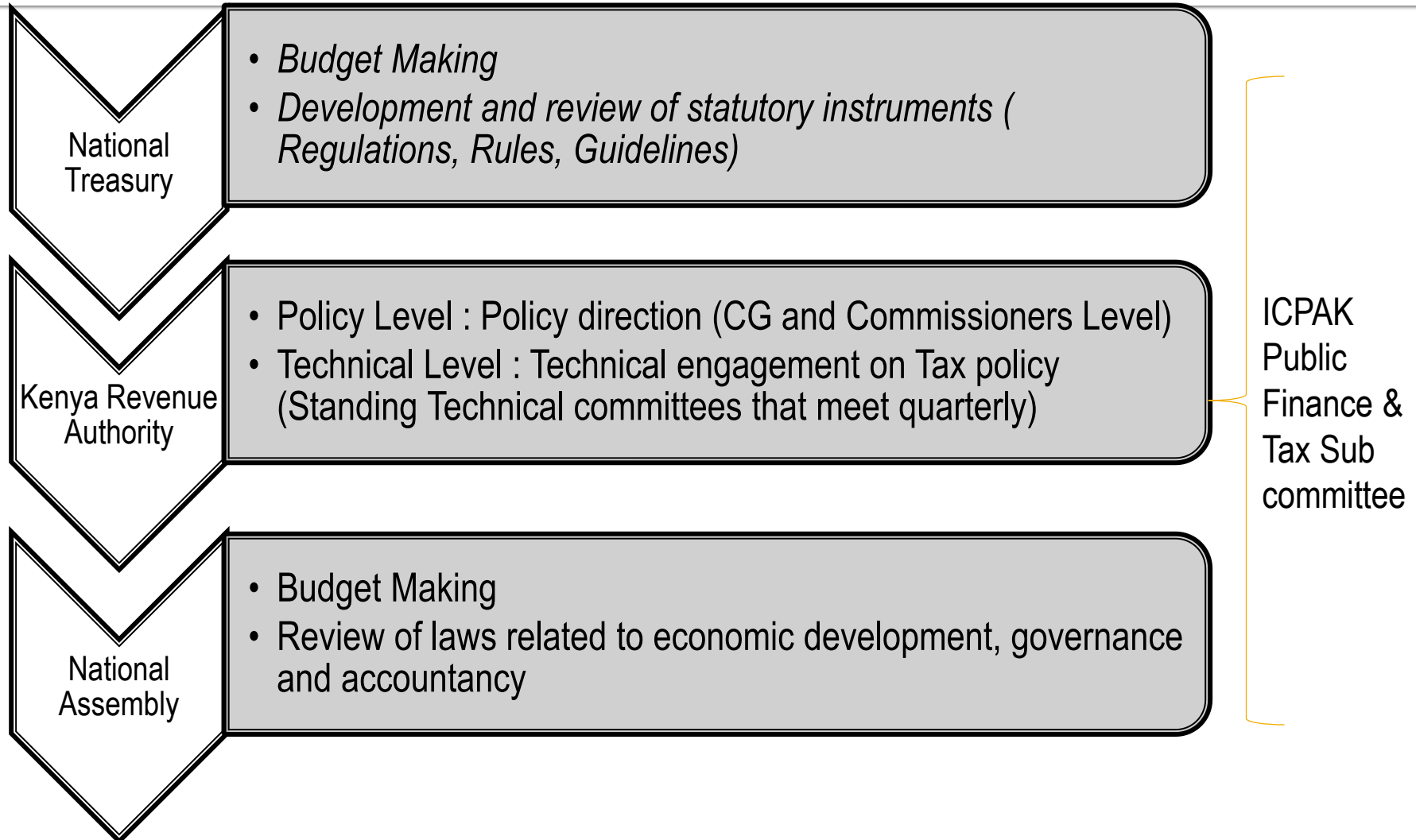
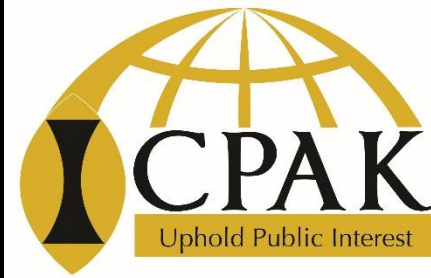
# Overall Budget Process

*Opportunity  
to Engage  
Parliament  
on the  
Finance Bill*

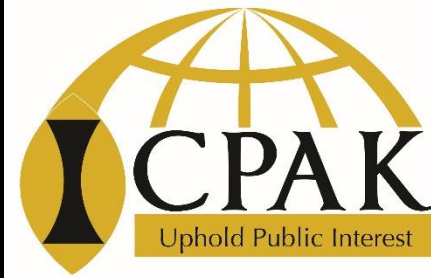


*Key entrance for  
engagement  
( Sep, Oct, Nov)*

# ICPAK's Engagement with policy makers



# Framework for budget submissions in 2016



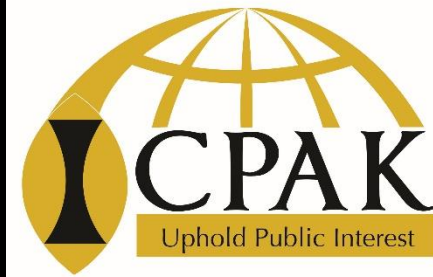
The Institutes budget submissions were guided by the following objectives;

- Reforming Kenya's tax systems and revenue administration
- Enhancing revenue productivity & tax efficiency
- Facilitating equitable and fair sharing of the tax burden
- Facilitating economic growth, Industry and Business

## The submissions focused on the following areas;

- **Review of the Income Tax Regime**  
To broaden the tax base in order to realize increased revenue collection
- **Implementation of the Tax Procedure Act 2015**  
To simplify tax compliance and collection and highlight provisions that negatively affect the administration of tax in Kenya.
- **Implementation of the Excise Duty Act 2015**  
Provide input that would guard against tax base erosion in the design of excise policy.
- **VAT Act 2013**  
That the VAT regime is cognizant, of the manufacturer's costs and is responsive enough to cushion the lower income groups.

# Indicative Performance



TAX AREA	NUMBER OF SUBMISSIONS	NUMBER INCLUDED IN THE FINANCE BILL 2016
INCOME TAX	4	2
Capital Gains	2	0
VAT	13	5
CUSTOMS & EXCISE	5	1
TAX PROCEDURE ACT	25	13
<b>TOTAL SUBMISSIONS</b>	<b>49</b>	<b>21</b>

# Income Tax



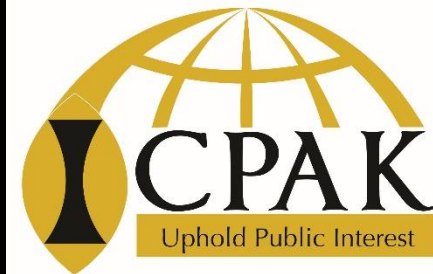
ICPAK PROPOSAL	OUTCOME & REFERENCE IN THE FINANCE BILL 2016
<p>1. Widening of the PAYE Brackets</p> <p>a. Personal Relief</p> <p><b>Increase to KES 19,500</b></p> <p>b. Widen tax brackets as follows</p> <p><b>Widen by 10% annually</b></p>	<p>Clause 14 ( a &amp; b)</p> <p>a. Personal Relief – KES 15,360</p> <p>b. Pay brackets increased by 10%</p>
<p>2. Harmonizing of the <u>residential tax rate</u> with the <u>withholding tax rate</u> on rental income</p>	<p>Clause 14 (d)</p> <p>Amending Paragraph 5(ja) of the third schedule to the ITA to <u>10%</u></p>

## Note on submissions

The National Treasury noted that the Income Tax proposals received by stakeholders would be considered during the **review of the Income tax act**, marked for presentation to the parliament in this financial year



# Value Added Tax



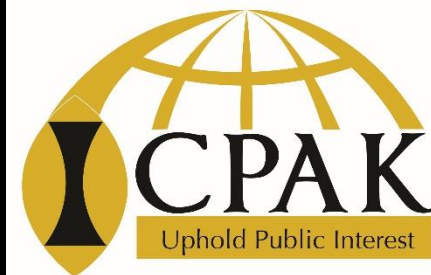
ICPAK PROPOSAL	OUTCOME & REFERENCE IN THE FINANCE BILL 2016
1. Sec 13 (7) VAT Act Service charge in lieu of <b>tips</b> as part of the price for purposes of calculating VAT	Clause 24 Excluding service charge from taxable value
2. Sec 25 A Abolition or clarification of <b>withholding VAT</b>	Clause 38 Introduce sec 42(A) allowing the commissioner to appoint withholding VAT agents
3. First Schedule Taxation of raw materials used in making <b>animal feeds</b>	Clause 27(i) Inserting tariff number (2302.10,2302.30,2306.10 & 2306.30)
4. First Schedule Zero rating <b>medicaments</b> (HS Code 3003.20.00)	Clause 28 (b) (i) Insert tariff number in Part C of second schedule

# Customs & Excise



ICPAK PROPOSAL	OUTCOME & REFERENCE IN THE FINANCE BILL 2016
<p><b>Ad valorem rates for vehicles</b></p> <p>The Excise Act 2015 deviated from basing excise duty on ad valorem to usage of specific rates</p> <p>Less the 3 yrs Old – KES 150,000 per unit</p> <p>Over 3 years Old – KES 200,000 per Unit</p>	<p>Clause 21</p> <p>Amendment of First Schedule</p> <p>Motor vehicles at <u>20%</u></p>

# Tax Procedures Act



ICPAK PROPOSAL	OUTCOME & REFERENCE IN THE FINANCE BILL 2016
<b>1. Section 19- Application for Tax Agents license</b> Amendment for recommendation from the <u>Tax Agents Committee</u> to issue a license to an applicant	Clause 32
<b>2. Section 47 (1) - Refund of overpaid tax</b> Period for application of refund for overpaid tax amending Section 47 (1) from <u>one to five years</u> .	Clause 39
<b>3. Section 33(3) Application for the extension of time</b> Amendment to provide for response from the Commissioner within <u>30 days</u> of receiving the application for extension of time	Clause 35
<b>4. Section 42 (7) Power to collect tax from person owing money</b> Amendment providing for the Commissioner response to a payer's notification of his inability to pay within <u>30 days</u> of receiving the notification	Clause 37
<b>5. Section 47 (3) Commissioner's communication</b> Decision on application for refund on tax overpayment - <u>90 days</u>	Clause 39 (b)

# Inconsistencies: ITA & TPA



ICPAK PROPOSAL	OUTCOME & REFERENCE IN THE FINANCE BILL 2016
<b>6. Sec 37 of ITA Retained</b> Provide for procedure of appealing to the <u>Local Committee</u> in relation to tax assessment	Clause 7 deletes the provision
<b>7. Section 51 A of ITA- Returns &amp; records in official language</b> Provided in section 23 of TPA	Clause 8 Repealing 51(A) of ITA
<b>8. Section 72 of ITA Retained</b> Conflict between Section 83 of the TPA on the penalties applicable for <u>late filing of corporate tax returns</u> .	Clause 9 Repealing sec 72 of ITA
<b>9. Sec 75 A Advance assessment</b> Provided in Sec 30 of the TPA	Clause 10 Repealing sec 75 of the ITA
<b>10. Sec 98 of ITA</b> Refers to Section 75 of the ITA which has been deleted under paragraph 4 of the second schedule of the TPA	Clause 11 Repealing sec 98 of the ITA

# Cont'



## ICPAK PROPOSAL

## OUTCOME & REFERENCE IN THE FINANCE BILL 2016

### **11. Sec 105 of ITA Retained**

Possible collision with Section 47 of the TPA

ITA : Provides that a taxpayer who has overpaid taxes can make a claim for refund before the expiry of seven years after the expiry of the year of income to which the claim relates

TPA : Limits the period to one year

Clause 12

Repealing sec 105 of the ITA

### **12. Section 123 C of the ITA deleted in TPA**

This section relates to tax amnesty

Clause 36

Amending the TPA to introduce a new sec 37 A providing to the commissioner to refrain from assessment.

# Inconsistencies : VAT & TPA



ICPAK PROPOSAL	OUTCOME & REFERENCE IN THE FINANCE BILL 2016
<b>13. Sec 33 of VAT Act retained</b> Fraud in relation to claims for tax refund	Clause 25 Repealing sec 33 of the VAT act
<b>14. Section 9 of VAT deleted</b> The Second Schedule to the TPA has deleted Section 9 of the VAT Act (appointment of a tax representative – non resident persons)	Clause 30 Amending the TPA to insert a new subsection 15 A providing for the <u>appointment of a tax representative by a non resident person.</u>

