


# TAX PRACTICE: AN OPPORTUNITY FOR SYNERGY BETWEEN ACCOUNTANTS AND LAWYERS.

## **Presented by:**

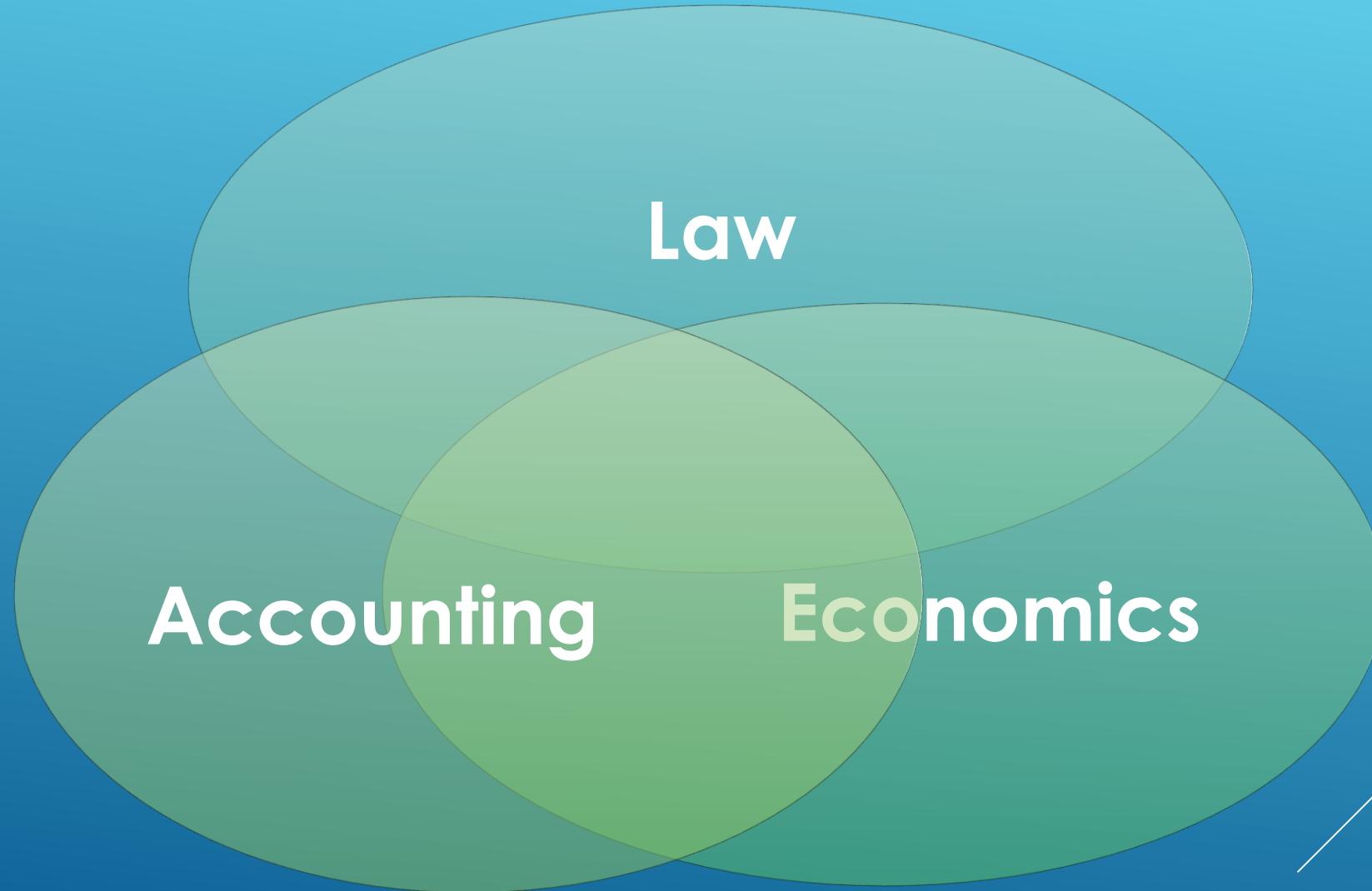
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# SETTING THE AGENDA:

- **Nature of taxation- Multidisciplinary aspects.**
  - **Developing mutually beneficial relationships.**
  - **Opportunities for synergy.**
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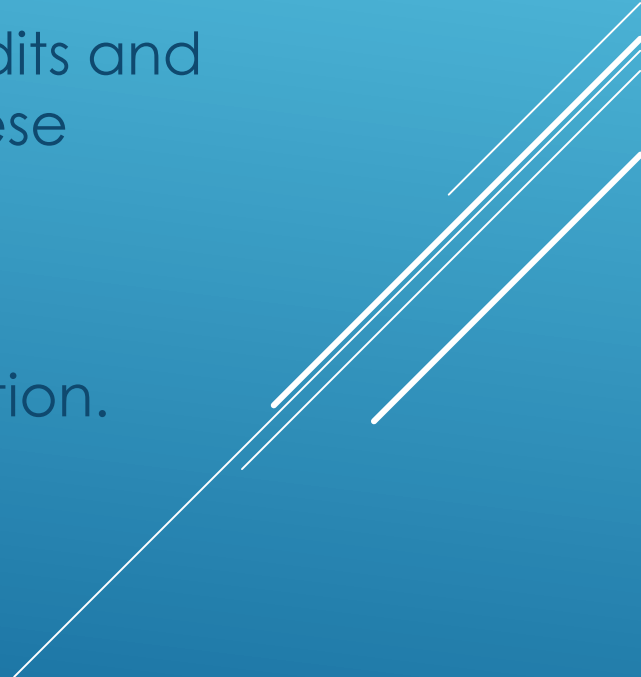
# NATURE OF TAXATION.




# NATURE OF TAXATION - Legal.

- Taxation is premised on the power of the Government to levy tax (Constitution of Kenya, 2010).
- The manner in which governments administer tax is embodied in tax law (public law).
- Taxation is based on law:
  - kinds of tax;
  - level of tax;
  - rates of tax;
  - charging provisions
  - procedure, enforcement, audit and inspection, administrative and appeals.

## ▶ **NATURE OF TAXATION – Accounting and Finance.**

- ▶ Income taxation is based on reported financial statements prepared on the basis of established financial principles (IAS, IFRS).
  - ▶ Ledgers and books of accounts form the basis of tax audits and reviews ( financial activities of entities are reported in these accounts).
  - ▶ Accounting information and invoices are critical to taxation.
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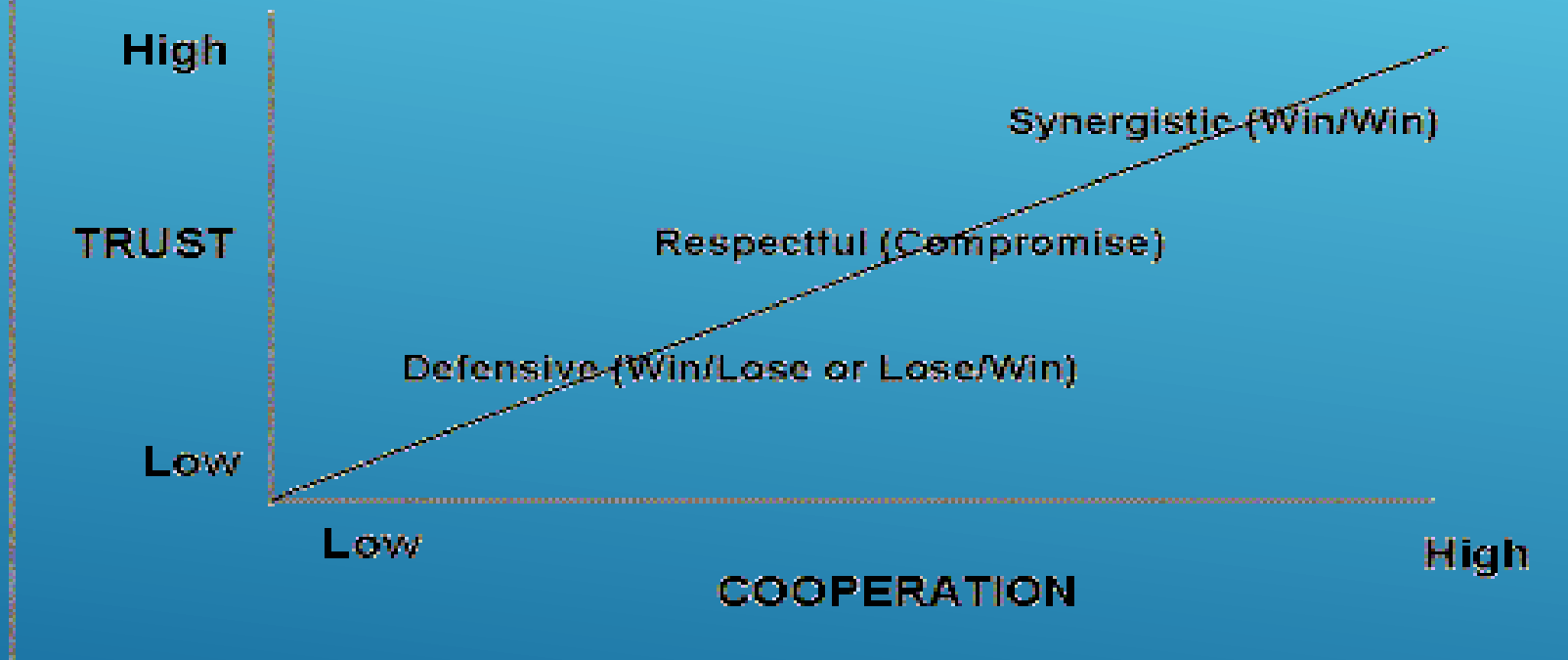
## **NATURE OF TAXATION – Demands of the modern client.**

- Globalization, increase in cross-border trade, emergence of new sectors, has given rise to a more sophisticated tax client who seeks solutions to complex tax issues which cut across various disciplines. Increasingly, we are beginning to see fewer purely legal tax issues.
  - Is it perhaps time to place more focus on what the client wants (demand) rather than on the profession (supply)?
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**HOW TO CREATE MUTUALLY BENEFICIAL  
RELATIONSHIPS?**

# LEVELS OF COMMUNICATION





# HOW TO CREATE MUTUALLY BENEFICIAL RELATIONSHIPS?

## i. Establishment of Multi-Disciplinary practices:

- “One stop shop” offering multi-disciplinary tax solutions.
- The Advocates Act (Cap 16 LOK) has limitations on sharing of profits with non-lawyers. Similarly, a non-lawyer cannot be partner in a law firm (co-ownership).

## HOW TO CREATE MUTUALLY BENEFICIAL RELATIONSHIPS?

- The question that begs asking is whether accounting professionals would be willing to be engaged in a professional capacity by law firms, much in the same way that audit firms have now engaged the services of advocates or in the same way that many qualified advocates practice as in-house counsel (employees)?

# HOW TO CREATE MUTUALLY BENEFICIAL RELATIONSHIPS?

## II. Referral Business.

- Building relationships that create opportunities to refer business as between the two professions.
- Guarantees delivery of service without putting at risk the independence of either profession.
- Howard Grobstein (*Partner and Leader, Crowe Howarth Audit and Financial Advisory Practice*), believes that the 2 important components to build relationships with lawyers are:-
  - Providing high quality work and exceptional service. Due to the varying styles and expectations of each profession, there is need to work closely and listen to each other to deliver on client needs.

## HOW TO CREATE MUTUALLY BENEFICIAL RELATIONSHIPS?

- Developing relationships (lawyers – accountants) that transcend work engagements. Grobstein observes that you are likely to refer work to a *'friend'*.
- In such instances of co-operation, billing could be done separately for the different service offerings (not masking fee sharing or partnership arrangements).

## **OPPORTUNITIES FOR SYNERGY- Areas to explore.**

### **i. Dispute Resolution.**

Jointly handling disputes at the objection stage , Tax Appeals Tribunal and High Court (legal and accounting aspects, litigation skills/litigation support, expert opinion, legal and accounting opinions).

### **ii. Alternative Dispute Resolution.**

KRA launched alternative dispute resolution framework (ADR Framework) in June 2015. This is one area where synergy between lawyers and accountants has been witnessed and is an aspect of tax dispute resolution that should be explored.

## **OPPORTUNITIES FOR SYNERGY-Areas to explore.**

### **iii. Commercial Transactions.**

Advising clients in transactions, capturing both legal and accounting aspects of tax -Real estate transactions, mergers and acquisitions and investment decisions.

### **iv. Tax planning/Transaction Structuring:** Accounting, commercial and legal aspects, tax opinions.

## **OPPORTUNITIES FOR SYNERGY-Areas to explore.**

### **v . Transfer Pricing and International Tax:**

Increase in cross-border trade creates opportunities to collaborate – drafting of transfer pricing agreements, selection of method, transfer pricing audits, documentation requirements.

### **vi. Preparing clients for tax audits by the Revenue Authority.**



## CONCLUSION

The time is ripe for both professions (lawyers and accountants to start engaging (a paradigm shift)).

We must begin to see each other as partners in the same business and not as competitors.

*Thank You!*