Composition of Tax Revenue in Kenya

Income Tax	40%
VAT	28%
Import Duty	8%
Excise Duty	15%
Excise Duty	8%
Other Taxes	9%

(Source: Institute of Economic Affairs 2012)

Income Tax Overview

- Income Tax is progressive in nature since higher earners pay a greater percentage.
- Though tax fairness is important since it helps the government to have a good relationship citizens.
- With a good relationship, citizens who are likely to support tax reforms that will lead to fair tax systems

Basic Terminologies in Income Tax

- Tax Base- all items or activities subject to tax. There is a difference between the potential tax base and the actual tax base.

Potential constitutes that which would be taxed if there were no special exemptions. Tax base is measured to the shilling amount to which a tax rate is applied.

Tax Rate- Its usually defined as a percentage of a certain value. E.g VAT @ 16% on a taxable item.

Example: a pair of shoes (tax base) worth Kshs.2,500. The total amount of tax to be collected amounts to Kshs.400.

Basic Terminologies..

- Tax burden-Refers to the amount borne by an individual or a business. It varies depending on several factors;

i) Income level

ii) Jurisdiction

iii) Current tax rates

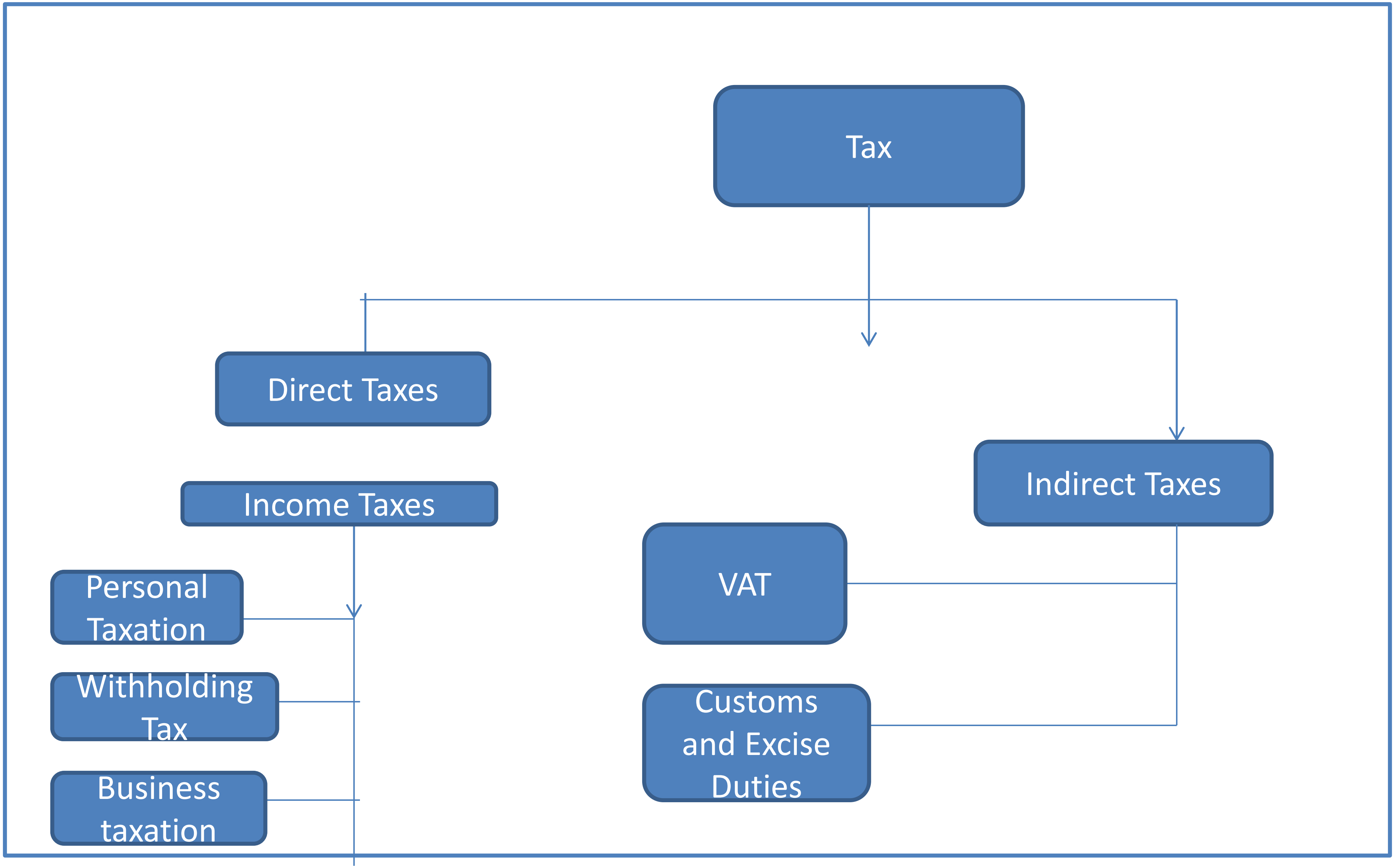
Tax burden may not be similar to actual tax paid because of passing a tax on. This is because if the difference in who has the legal liability of a tax and who has a statutory burden.

The person with the ultimate burden of the tax is the one who has the tax burden. (bears the economic incidence of the tax)

Conclusion of Basic Terminologies

- The average tax rate- calculated by dividing the total income taxes paid by your total income
- The marginal tax rate-is the rate of tax applied to the last shilling added to your taxable income.

Income Tax Overview



Direct Taxes

- This is tax paid directly by an individual or organization to an imposing(commanding) entity. A taxpayer pays directly to the government. For example CGT, business tax Corporation Tax, PAYE, WHT, Advance Tax.

PAYE

- This is whereby taxes are collected at source from individuals in gainful employment.
- Employers deducting it on a monthly basis and remitting it to the revenue authority relieves employees from paying the taxes at the end of the year.

Changes

Individual Rates	In Shillings
1st Kshs.134,164 from 121,968	10%
Next Kshs.126,403 next114,912	15%
Next Kshs.126,403	20%
Next Kshs.126,403	25%
On all income over Kshs.513,373 from 466,704	30%

Changes

- Bonus and overtime allowances exempted for employees below the lowest tax band.

Residency

- Has a permanent home in Kenya
- Was present in Kenya for a period amounting in the aggregate to = or > 183 days in each calendar year.
- Was present in Kenya in the calendar year of performance and in each of the two immediately preceding calendar years for the periods amounting in the aggregate to more than 122 days in each calendar year.

Tax credits on PAYE

- Personal Relief (only once a month)
- Insurance relief
- Mortgage Relief
- Pension Relief

Individual Taxes;

- Annual adherence to file tax returns (June every following year of the taxable period) so long as one is a registered tax payer and has a KRA pin. Incomes expected to be disclosed include;

i) Employees salary-salaries, wages, commission, bonus, allowances given to an employee while on duty, ex-Gratia payments, gratuity.

ii) Self Employment

iii) Business income

Individual Taxes…

i) Rental income

ii) Invested shares and earn dividends

iii) Consultancy fees

iv) Pension incomes

v) Employment benefits exceeding Kshs.36,000 p.a.

What is not considered for income tax..

- Employer contribution towards an employee’s insurance premium paid to a pension or provident fund or even to an individual retirement fund.
- Medical benefits to employees and whole time service directors (holding less than 5% shares)
- Education fees if disallowable on employer
- Meals served to low come employees.
- The cost of international passage paid by the employer for a non-Kenyan employee recruited outside Kenya specifically to discharge his or her employment duties.

Corporate Tax

- Income tax levied to companies.
- Resident and non resident at 30% and 37.5% respectively.
- Installment tax is captured here.
- Thin capitalization is monitored through interest expense charged in allowable expenses.
- Compensating tax is also derived as an additional tax since this is not final tax for companies whether resident or not.

Corporation Tax Structure

Type Of business	Resident
Corporate Tax	30%
Export Processing Zones Enterprises First 10 years Next 10 years	 0% 25%
Newly listed Companies at the NSE with over 20% listed. (3 years(	27%
Newly listed Companies at the NSE over 30% capital Listed (5 years)	25%
Newly listed Companies at the NSE over 40% capital listed (5 years)	20%

Changes

- A company that has constructed more than 400 hundred residential units annually, remits 15% as Corporate tax in that year of income but subject to approval by Cabinet Secretary responsible for housing.

Turnover Tax

- The spirit behind is to have businesses that whose revenue does not exceed Kshs.5 Million at the rate of 3% of turnover.
- However it does not include the following;

i) Persons with business income <500,000 p.a

ii) Employment income

iii) Exempt incomes

iv) Business incomes that are subject to a final WHT

v) Limited Companies

vi) Rental Income

vii) Professional or Management fees.

Deemed Interest

- Deemed interest mean an amount of interest equal to the average 91-day Treasury Bill Rate deemed to be payable to a resident person in respect of any outstanding loan provided or secured by non-resident, where such a loan is provided free of interest.

WHT

- This is also deducted at source from the following sources of incomes;

i) Interests
ii) Dividends-
iii) Royalties
iv) Management or professional fees or contractual
v) Commissions
vi) Pension or retirement annuities
vii) Rent
viii) Appearance or performance fees for entertaining.
ix) Sporting or diverting (MC) audience

WHT Rates

Interest from Banks-Financial Institutions	**15%**
Interest on Housing Bonds	10%
Dividends	5%
Royalties	5%
Insurance Commission	5%
Insurance Brokerage	10%
Professional fees/contractual fees	>Kshs.24,000, 5% Professional and 3% Contractual

Tax Returns

Taxes	Due Date
Individuals (employees and Sole Proprietorships)	On or before 30th June every year following the tax period. (Jan to Dec)
Corporate Bodies (Limited Companies, trusts)	Before the last day of the sixth month after the end of the accounting period.
Turnover Tax	Must submit quarterly returns on or before the 20th day after the quarter.
VAT, WH VAT, WHT	On or before the 20th day of the following the tax period.

Advance Tax

- This is applicable to Matatus and Public Service Vehicles. Though not a final tax but a tax partly paid in advance before a public service vehicle is or commercial vehicle is registered or licensed. The objective is to ensure compliance.
- Vans, pick-up and lorries; Kshs.1,500 per tonne of load capacity per year Kshs.2,400, whichever is higher.
- For Saloons, station wagons, mini-buses, buses and coaches, Kshs.60 per passenger capacity per month or Kshs.2,400, whichever is higher.

Changes in Motor Vehicles

- Less than 3 years from the date of its first registration Kshs. 150,000 per unit if more than three years; Kshs.200,000 per unit. This excluded the locally assembled motor vehicles.
- This substituted the earlier 20% of cost per unit.

Changes in Hotel Business

- Hotel includes premises commonly referred to as service flats, service apartments, beach cottages, game lodges, safari camps, bandas or holiday villas and other establishments used for similar purposes.
- Except;

Leases less than a month

Premises operated by an educational or training institution approved by the Cabinet Secretary.

Premises used by a medical Institution.

Changes in TIPS-subject to VAT

It includes a service charge when its paid in lieu of tips.

Where there is a written agreement between the employer and the employees where a TIP is distributed directly to staff

- Where a service charge does not exceed 10% of the service price. (service charge exclusive)

Non Residents Doing Business

- Where a non-resident has no fixed place if business in Kenya is required to register under a tax law, the non-resident shall appoint a tax representative in Kenya in writing. If he fails the commissioner will appoint on his behalf.

Information Required

- Supporting information must be provided to the Commissioner from a tax return within the time as the Commissioner may prescribe. If not; within 30 days respond in writing requesting the extension in time.
- Note: as from 1st July 2015, the Commissioner shall refrain from assessing or recovering taxes, penalties or interest for any period before and during 2013 year of income.

Changes

- Where a person does not have documentation to support expenditures, such person will be allowed a deduction of 40% of the expenditure. This will not apply if;
- has been assessed in respect of the tax
- Under audit findings, some incomes were found undisclosed.

- Incase of overpayment of tax; the Commissioner shall repay the overpaid tax within a period of two years from the date of application. Failure will attract an interest of 1% per month.
- Where tax has been refunded erroneously, on demand by the Commissioner, pay the amount erroneously refunded.

Retirement Benefit Act Changes

The certificate of registration must remain valid.

Must pay the annual fees as prescribed by the Authority.

By 30th September every year, the manager, custodian or administrator must submit to the Authority its audited accounts, list of directors and any changes of Clientele and any further information that the Authority may request.

They must also inform the Authority within 30 days any changes in directorship, shareholding and top management.

Indirect Taxes

- This is a charge levied by the State on consumption, expenditure, privilege or right but not on income or property.
- Customs duty levied on imports, excise duties on production, VAT are examples of indirect taxes. They are also called consumption taxes, regressive in nature because they are not based on the ability to pay principle.

VAT

- This is a tax charged at each stage of production and distribution chain up to the retail stage. VAT is also levied on imported goods and services.

Characteristics of VAT

i) It has wide coverage; manufactured goods, services and imported goods.

ii) Charged on selling prices

iii) It is charged where value is added

iv) It is easily separable from other costs.

v) The input tax is claimable immediately by offsetting from the output tax

vi) VAT avoids the cascading effect of a tax i.e VAT is not charged on another tax.

What is Vatable

- Imported goods and services where they are taxable in Kenya. The person receiving the goods or service should pay for the VAT.
- Charged to any goods or services made or provided in Kenya where it is a taxable supply.
- A person who makes or intends to make a taxable supply is required to be registered for VAT made and provided in Kenya.
- Zero Rates-Tax is charged but at 0% and hence input tax is claimable.

Challenges in collection of VAT

i) High procedural and administrative costs in management of high frequency tax filing, processing refund claims.

ii) Distortions of the VAT system and tax leakages caused by exemptions and zero rating of certain goods and services.

iii) Huge backlog of refund claims has affected business cash flows.

iv) Lack of clarity in several amendments of various sections of the VAT Act.

Input and Output VAT

- Input Tax-Tax paid on supply to a registered person of any goods or services to be used by him for the purpose of his business. Its also tax paid by a registered person on the importation of goods and services to be used by him for the purposes of his business.
- Output tax- This is tax which is due on taxable supplies.
- Note: Non-payment after due date attracts an interest of 2% per month of the outstanding taxes.

Withholding Tax Agents

- The Commissioner appoints a person, being a purchaser of taxable goods and services to be a Withholding tax agent.

i) No VAT will be withheld for suppliers who are subject to turnover tax upon presentation of a valid turnover tax certificate.

ii) The tax to be withheld by the Ministry of Roads and its Parastatels e.g Kenya Roads Board, KERRA, KURA, KENHA shall be 50% of the tax payable on purchases made by these institutions.

iii) The person withholding must issue a Withholding tax certificate.

Note: The Commissioner may; on application by the supplier of goods and services waive the requirements of this section in respect to the tax due. If he/she is satisfied that owing to the supplier’s business its impractical to withhold and account for the tax in accordance with this section.

VAT on Bad debts

- Where a registered person has supplied goods or services and has accounted for; paid tax on that supply but has not received any payment from his debtor after a period of three years from the date of supply.
- Or the debtor had become legally insolvent, apply to the Commissioner with prior approval to the Minister to refund the tax.

VAT Exempt

- Refer to VAT Act Third Schedule;

i) Operation of current, deposits or savings account including provision of statements.

ii) Foreign exchange transactions

iii) Provisions of letter of credits and provision of guarantees.

iv) Insurance and reinsurance services excluding; actuarial services, management and related consultancy services, services of insurance acessors and loss adjustors.

i) Medical and nursing services.

ii) Sanitary and pest control services rendered to domestic households.

iii) Agricultural, animal husbandry and horticultural services.

iv) Transport of passengers by any means of conveyance but excluding where the means of conveyance is hired or chartered. (uber?)

v) Postal services

vi) Services rendered by trade, professional and labor associations, educational, political, religious, welfare and other philanthropic associations to their members.

Excise Duty

- It’s a tax applied on selective goods and services. Its a very important source of revenue to the government since in some instances its used to discourage the consumption of harmful products e.g tobacco, alcohol for public health objectives (sin tax).

Changes in Tariffs

- Illuminating Kerosene- Kshs.7,205 per 1,000 ltrs @ 20 degrees centigrade.
- Cosmetics and beauty product to a rate of 10%.

Custom Duty

- All imported goods are subject to import duty unless they receive preferential treatment e.g Red Cross imports. The current structure this tax is guided by eight tariff bands are determined by international trade agreements that Kenya is party to e.g EAC, WTO.
- Customs are not only charged to raise revenue but also to facilitate trade and protect domestic manufacturing industry.

Customs

Its primary function is to collect and account for import duty and VAT on imports.

- It involves;

1. Determination of the value of imported goods
2. Determination of goods for export
3. Appraisal of value of imported goods
4. Value of goods for excise duty purposes.
5. Exemption from certain duties by the Minister

Other Roles

- Responsible for the facilitation of legitimate trade and protection of society from illegal entry and exit of prohibited goods.

Tax collected

- Petroleum Development Levy
- Sugar Levy
- Road maintenance levy
- Import Declaration Fees
- Road Transit Toll
- Directorate of Civil Aviation Fees
- Air Passenger Service Charge
- KAA concession Fees
- Fees on Motor Vehicle Permits

exemptions

- 1. Remission of certain duties on lost or destroyed goods.

2. Exemption from duty on goods entered for exportation.

3. Exemption from certain duties for re-importation.

Features of Revenue Administration Reforms

i) Implementation of appropriate, simple and transparent tax and trade legislation to provide conducive environment for compliance and support international trade agreements.

ii) Implement up-to-date procedures to reduce burden on tax payers and traders, promote integrity and transparency in processes.

iii) Rationalize organizational and management structures.

iv) Promote voluntary compliance and use of risk management techniques to provide the cost effective outcomes

Features Cont…

v) Increase autonomy in recruitment, training, retaining and motivate high caliber staff. Measure performance and remove ineffective and corrupt officials.

vi) Control budgets, pay competitive salaries and operate flexibly.

vii) Ensuring effective protection and surveillance functions in customs.

viii) Developing holistic approaches to taxpayer services e.g make tax payers understand all of their tax obligations.