A NON-STATE ACTOR'S PERSPECTIVE TO TAXING INCOME IN KENYA

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1 INTRODUCTION

The increased level of complexity associated with tax law as well as the growing volumes of statute books have led to pleas for simplification of tax law in various jurisdictions. Among commonwealth countries, the 1990s saw three Commonwealth jurisdictions namely; New Zealand, Australia and the United Kingdom, pursue similar yet different paths to simplify their tax statutes. The process involved the simplification of language in the statues through the utilization of plain English drafting techniques. Each jurisdiction attempted to simplify the tax statutes through a "rewrite" of the law while retaining the underlying core concepts. There was minimal critical examination of tax policy processes.

In Kenya, tax experts have called for the simplification of tax statues. Over the last few years, the reform of Kenya's Tax system has involved policy, legal and administrative reforms aimed at modernizing taxation and simplifying tax administration in Kenya. Recent efforts to modernize the tax regime have yielded a new Value Added Tax 2013, Tax Procedures Act 2015, Excise Duty Act 2015 and Tax Appeals Tribunal Act 2015.

In January 2017, the National Treasury called for proposals on policy priorities to consider in the review of the Income Tax Act (CAP 470). ICPAK recognizes that legislation, including subsidiary legislation, traces its foundation on an agreed policy framework, to establish the most appropriate approach to resolve a problem. As such, the review of the Income Tax Act should be predicated on an Income Tax policy as a precursor to the review of the law. It is therefore the Institutes professional opinion that an income tax policy should be developed to guide the review process of the Income Tax Act.

Consequently, to facilitate input into this process, the Institute convened a taskforce to develop a recommended policy framework to support the review process. In developing this framework, ICPAK facilitated a platform for Professionals, the Business community and Non-State Actors to give views on policy development. This process also benefited from views collected from stakeholders drawn from nine clustered regions across the country. The Institute further benchmarked with other commonwealth jurisdictions that have undertaken a rewrite or review of their Income Tax Act. We specifically reached out to the Australian Tax Office for a consult on their review experience in order to learn and borrow from their design expertise, where appropriate.

Recognizing that policy making is an executive function of the National government, it is the Institutes prayer that the National Treasury will consider incorporating this framework as a National Policy to guide the taxation of income in Kenya.

2 SITUATIONAL ANALYSIS

2.1 DEFINITION OF INCOME

The definition of income is a primary policy issue to be addressed in any income tax policy. The current framework does not accurately define income for taxation purposes. It therefore becomes a challenge for both the revenue administrator and tax payers to appropriately determine taxable income. The income tax regime should facilitate a comprehensive definition of income. In addition, the determination of taxable income should be simplified in accordance with accounting standards.

2.2 ECONOMIC DIVERSIFICATION

The development of Kenya's income tax regime was anchored on growing manufacturing and agriculture as the primary sectors driving the economic agenda. However, it is important to recognize that the economic environment in Kenya has significantly changed since 1974. It is therefore critical that the income tax framework is designed to be responsive to emerging sectors and recognizes those previously excluded to enable taxation of all sectors of the economy.

2.3 TAX INCENTIVES

Tax incentives provide favorable tax treatment of specific activities and are intended to encourage investment to specified sectors. Nevertheless, Kenya's income tax regime lacks an objective criterion to determine eligibility for incentives and minimize potential abuse. As result, incentive schemes are not aligned to the overall economic agenda hence vulnerable to influence by political and private interests.

The income tax regime should facilitate reliefs across the value chain, motivate investment into innovation, research and development and align to the country's overall economic agenda.

2.4 THE DIGITAL ECONOMY

Taxation of the digital economy has proved to be one of the most uncertain taxation aspect of multinational business today. Overall, digital business models have disrupted traditional trade flows, posing significant challenges to the collection of taxes in the current tax regime. This is due to the mobility of intangibles, which exerts pressure on the accurate administration of direct taxes on income.

Due to the global nature of the digital economy, the income tax framework should consider benchmarking against global standards, such as the Base Erosion Profit Shifting(BEPS) Action Plan. This is a tool adopted by the Organization for Economic Corporation and Development (OECD) in September 2013, to address BEPS. This tool provides a framework to establish international coherence of corporate income tax, reinforce substance requirements in the existing international standards while improving both transparency and certainty in taxation.

The Income tax regime should therefore facilitate the development of an overarching mechanism to tax intangibles and provide guidance on transfer pricing and permanent establishment definition.

2.5 DATA MANAGEMENT

The effective administration of revenue hinges heavily on effective data management. The increased demand for tax transparency by governments have been motivated the move by several tax authorities to invest in sophisticated data-gathering platforms. Data management involves effective procedures to facilitate the acquisition, validation, storage and protection of data. This is to facilitate utilization of data analytics to mine data for effective revenue administration.

The income tax regime should enable the development of an economy wide data management policy that promotes digitization of information gathering, to facilitate ease of access, management and consolidation of data.

2.6 INTERNATIONAL TAXATION

Globally, countries tax income based on both residence and source. Thus, cross border transactions risk being taxed twice, both in the source country and in the country of residence leading to double taxation on profits from cross border activities. To address this, taxation regimes apply international rules designed to provide clarity and predictability in taxation, in order to provide international coherence in income taxation.
The Income tax framework should facilitate the review of policy interventions around development and ratification of treaties and agreements to facilitate implementation of Double Taxation Agreements (DTAs). It should further provide for the taxation of worldwide income together with unilateral tax credits on foreign tax paid on income that would be subjected to taxation in Kenya.

2.7 HARMONIZATION WITH ACCOUNTING STANDARDS

Kenya adopted International Financial Reporting Standards(IFRS), then referred to as International Accounting Standards (IAS), in 1999 providing set of rules to abide by when preparing an entity's accounts, in order to ensure this standardization across the market. The income tax framework was however designed prior to the adoption of IFRSs. Consequently, basic accounting principles such as revenue recognition have not been incorporated in the income tax legislation.

The design of the income tax regime should facilitate harmonization of various taxation aspects and definitions with accounting standards.

2.8 TAX ON CAPITAL GAINS

Taxation on Capital gains was first incorporated within the Kenyan income tax legislation in 1975, as entrenched in the Eighth Schedule to the ITA. In 1985, the tax was suspended to encourage growth in the real estate sector. The CS National Treasury amended the Eighth Schedule to the ITA through the Finance Act 2014 by providing for tax at 5% on gains accruing to a company or an individual upon the transfer of property in Kenya on or after January 1, 2015, providing a blanket reintroduction of the tax with the exemption of the stock market in January 2016.

The income tax framework should provide for the taxation of capital appreciation through the incorporation of a clear policy to guide the exemption of various sectors in line with the development agenda as well as indexation to determine the Capital Gain.

2.9 INFLATIONARY ADJUSTMENT

Inflation is the increase in prices of goods or the loss in purchasing value of money. As the cost of living goes up, income taxes often grow faster than incomes. The current income tax regime provides for a graduated personal income tax. If these fixed income levels aren't adjusted periodically, taxes can go up substantially simply because of inflation.

The Income tax framework should incorporate inflationary indexation in the taxation of all incomes. This can be achieved by applying an inflationary index on income. The index should capture overall economic environment of the nation to grow the disposable income for households.

2.10 DEFINITIONS OF TERMINOLOGY

Certain definitions in the ITA have become obsolete and are inadequate to provide clarity for taxation purpose. There is need to enhance the understandability and provide for a unified interpretation of the income tax law.

The design of the income tax regime should facilitate the inclusion of a glossary of terms and concepts for clarity in the interpretation of the law. It should further incorporate globally accepted standards in defining various terms and concepts as well as definitions provided in various legislative instrument for consistency in the application of the law.

2.11 HARMONIZATION WITH THE CONSTITUTION AND EXISTING LEGISLATION

Kenya is operating under the 2010 constitutional dispensation. This implies that several statutes have been enacted to modernize the regulatory environment for businesses. Additionally, the various reforms instituted to modernize tax administration in Kenya, has resulted in the drafting of new laws such as; the Tax Procedures Act 2015 and the Tax Appeals Tribunal Act,2015 to support the implementation of the program. This has resulted is various inconsistencies between these acts and the Income Tax Act. The introduction of the new Companies Act 2015 has further introduced provisions that would otherwise conflict with the current income tax provisions.

The design of the income tax regime should facilitate alignment with the Constitution of Kenya, existing revenue statutes and the Companies Act 2015, to address the duplication and inconsistencies that will derail the effective implementation. It should further facilitate meaningful consultation through public participation at all stages of the development of legislation and subsidiary legislation.

3 POLICY GOAL AND DEFINATION OF INCOME

The purpose and overall goal of this policy is to design an income tax system that efficiently facilitates equitable revenue mobilization to enable sustainable social economic development in Kenya.

Noting that the definition of income is the bedrock of any income tax regime, a comprehensive definition of income will include any monies or benefits that accrue to all economic actors from all economic activities regardless of the source

4 GUIDING PRINCIPLES

The policy will be guided by the following principles to enable the design of an equitable and efficient income tax system;

i. **Simplicity:** Simplicity in taxation enables tax payers to readily understand and determine their tax obligations, thereby giving certainty to taxpayers on their correct tax positions. The effect of a simple tax system will be ease of implementation and consequently reduce the administrative and collection costs.
ii. **Equity:** Equity for taxation purposes, primarily addresses the issues of progressivity, redistribution and overall is a question of who bears the tax burden. The burden of taxation should be distributed equally or equitably in relation to the ability of the tax payers to pay. The principle of equity should enable the design of an income tax regime that facilitates wealth redistribution in the economy.
iii. **Neutrality:** Neutrality in a tax system is achieved when similar activities are treated in similar ways. This implies that a tax system that treats all income similarly achieves neutrality over the form in which income is received. A neutral income tax system will minimize distortions over people's choices and behavior such as; choices between debt and equity finance, capital gains and other forms of capital income.
iv. **Certainty:** Certainty of a tax system is realized when there is clarity on the various aspects of taxation. This includes clarity on who bears the tax burden, certainty in determining the taxable amount and certainty over the tax yield to inform revenue collection forecasts.
v. **Productivity:** Productivity as a principle of taxation ensures that a tax system yields tax revenues at a level that is commensurate with the level of economic activity.
vi. **Efficiency:** Efficiency in the taxation system ensures that revenue collection is undertaken economically to minimize the cost of collecting taxes. This implies that the cost of revenue collection does not exceed the total revenue collected. This is achieved when a tax system is crafted in a manner that eliminates systemic and administrative bottlenecks.

5 POLICY OBJECTIVES

5.1 A SIMPLIFIED INCOME TAX SYSTEM

BACKGROUND

Kenya's Income Tax system can be described as complex on the grounds of the complexity of the underlying legislation. This has contributed to increased costs of compliance thereby growing the level of non-compliance by tax payers. In contrast, a functional tax system is underpinned by the canons of taxation of which simplicity is critical. A simple tax system enables taxpayers to understand, compute and determine their tax obligations, inevitably enhancing the levels of tax compliance.

POLICY OBJECTIVE

To create a simplified income tax system that enables tax payers to understand, compute and comply with their tax obligations

KEY CONCERNS

The complexity of the income tax system is caused by the following factors;

i. Complexity in the process and procedures required to file returns.
i. Complexity in the information technology infrastructure utilized to file the returns.
ii. Lack of clarity in the definition of income and the scope of sectors.
iii. Complexity in the language used to draft the various legislative instruments.
iv. Complexity in the computation mechanism that lead to erroneous assessments and determination of tax liabilities, creating opportunities for abuse of the process by the Revenue Authority.

POLICY ACTIONS

The following policy actions will facilitate the simplification of the Income Tax System;

i. Review the complexities in the current income tax system to facilitate the design of a of a more responsive regime.
ii. Harmonize and consolidate the taxation of income in various sectors within one legal instrument and in line with the International Financial Reporting Standards(IFRS).
iii. Design a taxation system that facilitates the identification and tracking of economic activity through a single identifier.
iv. Facilitate effective stakeholder engagement in the design of the income tax system to enhance input and secure buy-in.
v. Design a taxation regime that reflects investment characteristics of various sectors
vi. Design a regime that facilitates accurate verifiable recognition and reporting of costs and income.

POLICY OUTCOMES

A simplified income tax system will secure the following outcomes;

i. Enhanced ownership of the tax process by tax payers, enabled through a framework on stakeholder engagement, resulting to increased public confidence in the tax system..
ii. Increased tax payer compliance and reduced tax disputes between Kenya Revenue Authority and tax payers.
iii. Enhanced revenue collection due to an increased number of tax payers and level of compliance.

POLICY RISKS

i. Simplifying the income tax system will require a review of the tax law and subsidiary legislations. The law-making process is time consuming and requires political will.
ii. Over simplification of the tax regime may create room for varied interpretations of the legislation resulting in increased disputes between tax payers and the Kenya Revenue Authority.

5.2 EQUITABLE, NEUTRAL AND PREDICABLE INCOME TAX SYSTEM

BACKGROUND

The stability of a tax system is realized when the system is designed against the principles of equity, neutrality and predictability. Equity is defined as fairness of the resulting tax system both horizontally and vertically. Horizontal equity addresses questions on whether the tax system makes arbitrary distinctions among tax payers, while vertical equity concerns itself with how people at different income levels should be taxed considering their relative ability to pay[1]. Equity therefore facilitates the fair redistribution of resources within an economy.

Neutrality on the other hand is achieved when a tax system raises revenues while minimizing discrimination in favor of or against any economic group. It further facilitates similar treatment of comparable activities for taxation purposes.

Predictability of a tax system implies that tax rules are clear and simple for the tax payers to make optimal decisions and respond to the intended policy choices.

POLICY OBJECTIVE

To facilitate equitable neutral and predictable tax regime

[1] *See "Principles of Taxation" by Musonda Kabinga* , *2016*

KEY CONCERNS

Implementation of the current income tax system has not realized optimality on account of non-conformity to the principles of equity, neutrality and predictability. This is demonstrated by the following key issues:

i. Design of incentives

A tax incentive is defined as a more favorable tax treatment of certain activities or sectors compared to what is granted to general industry. While incentive schemes are intended to promote economic activity, application of some schemes has been motivated by political and sector-specific interests. In the case of income tax, most of these schemes have not achieved the intended objectives. This can be attributed to the fact that they are neither targeted nor the outcome of their application quantifiable. In addition, the compliance systems around the schemes are ineffective and prone to abuse.

ii. Basis for exemptions & exclusions

The exemptions framework within the income tax law lacks clarity thus hindering its proper implementation. In the absence of an objective criteria to determine eligibility, the granting of exemptions is discretionary. This creates room for private interests to supersede the national good.

iii. Double taxation for businesses and natural persons

In the era of globalization, where economies are interlinked, there is need to have a comprehensive double taxation framework to guide cross-jurisdictional taxation. Lack of a comprehensive double taxation treaty policy has slowed the processes to negotiate and ratify agreements. This has further delayed access of treaty benefits to Kenyan tax payers.

iv. Frequency of amendment to Income Tax Law.

The current Income Tax Act was enacted in 1974. To update the law, numerous amendments have been effected, most of which may not have been informed by policy. In addition, the frequency of the amendments has made it difficult to predict taxation policy thus creating a disruptive business environment.

POLICY ACTIONS

i. Design incentive schemes that support the attainment of the development agenda.
ii. Develop an overarching policy to harmonize the broader taxation system to promote a stable business environment in Kenya.
iii. Design a targeted, measurable and transparent criterion for granting exemptions
iv. Facilitate clear definition of deductions and exclusions that are equitable, simple to implement and align with the international best practice
v. Enable the taxation of worldwide income for residents
vi. Introduce a unilateral tax credit to all persons and businesses

POLICY OUTCOMES

Effective implementation of an equitable, neutral and predictable taxation system will yield the following policy outcomes

i. Redistribution of resources within the economy;
ii. Reduction of inequalities within the population
iii. Increase in the level of public and private sector investment
iv. Reduced incentives for tax avoidance, thus an increase in revenue.

POLICY RISKS

The following are some of the policy risks that may pose a threat to the realization of the outcomes of the identified policy actions:

i. It may not be easy to secure political will from policy makers and buy-in from players due to complexity of taxation matters.
ii. Inadequate resources, both human and financial, may constrain implementation of the policy actions.
iii. Changes in the political environment could trigger changes in policy priorities.

5.3 STABILITY IN REVENUE COLLECTION

BACKGROUND

Revenue stability is determined by the degree of deviation of the actual revenue from the predicted revenue targets. A stable revenue collection strategy ensures that fluctuations are minimal over time. Revenue stability eases fiscal management because revenues can easily and predictably be forecasted. Stability of the tax system further reduces compliance and administrative costs and increases the credibility of the system. For individuals and businesses alike, stability is fundamental to effective planning and efficient compliance.

POLICY OBJECTIVE

To enhance stability in revenue collection by broadening the tax base while facilitating equity in the tax burden

KEY CONCERNS

The following are the key concerns affecting stability in revenue collection in Kenya:

i. Narrow tax base

Kenya has continued to place reliance on a small pool of tax payers. According to the Kenya Revenue Authority, Kenya has only registered about 2.6 Million tax payers. This implies that out of a population of 45 million people, under 5% of the population contribute to income tax. This therefore raises fundamental questions regarding the harnessing of the tax base in Kenya. It is imperative that the Income Tax system is reviewed to broaden the tax base to realize increased revenue collection.

ii. Non-conventional transactions such as barter and payments in kind

A new form of barter economy is emerging in many industrial nations. People are exchanging goods and services through Local Exchange and Trading Systems (LETS). These are local associations whose members list their offers of, and requests for, goods and services in a directory and then exchange them priced in a local unit of currency. Moreover, some professionals trade their services for non-monitory gain, making the computation of their income hard.

iii. Erosion of the tax base through the emergence and growth of the digital economy.

Globally, as the digital economy keeps growing, every sector's margin narrows due to relocation of incomes abroad. This in turn deprives the government from additional revenue that should normally accrue from higher productivity. Other challenges include cross border transactions and transfer pricing complexities that facilitate profit shifting, enabling tax avoidance and evasion.

POLICY ACTIONS

i. Facilitate integration of systems to enable information sharing within Kenya and across jurisdictions for taxation purposes.
ii. Utilize technology and data management to identify potential tax payers to design an appropriate mechanism for registration.
iii. Adopt best practice to determine the optimal tax rate
iv. Adopt appropriate revenue forecasting models to facilitate accurate determination of revenue targets.
v. Collaborate with stakeholders to enhance public awareness on the value of paying taxes
vi. Appoint tax prosecutors and enhance the capacity of the prosecution agencies on taxation matters.

POLICY OUTCOME

i. Increased number of taxpayers
ii. Secure stability in revenue collection
iii. Facilitate certainty in revenue forecasting

POLICY RISKS

The following are some of the policy risks that may pose a threat to the realization of the outcomes of the identified policy actions:

i. Corruption could impair implementation.
ii. Resistance from stakeholders
iii. Fear of public backlash against increased taxation.
iv. Lack of comprehensive revenue data to enable accurate forecasting.
v. The mobile nature of the informal sector coupled with small scale operation, cash transaction and unwillingness to keep business records makes compliance difficult in the sector.
vi. Resource constraints could hamper implementation of an efficient tax system.

5.4 EFFICIENCY IN TAX ADMINISTRATION

BACKGROUND

Improving revenue performance is an important objective of public sector reform in many developing countries. To enhance performance, tax payers must be identified and managed through an effective tax administration system. As such, the system should identify all potential taxpayers by way of a unique identifier which integrates all information about the tax payer. Under the Medium-Term Plan II 2013-2017, the government envisioned implementation of tax reforms specified below

- To fully Integrate the Tax Management System (ITMS);
- To enhance Payments of taxes via mobile money;
- To employ use of geo-spatial information and other techniques with geographical aspects to enhance revenue collection from the real estate sector;
- Taxation of High Net Worth Individuals (HNWIs);
- Implementation of Single Customs Territory (SCT) to introduce tax payment at first point entry;
- Implementation of Electronic Cargo Tracking System (ECTS);

It is therefore critical that the data integration framework incorporates these priority reform areas.

POLICY OBJECTIVE

To enhance efficiency in tax administration through integration of the identification of individuals and businesses

KEY CONCERNS

i. Lack of precision in the identification of tax payers

The absence of an integrated mechanism to identify all taxpayers results in the exclusion of a large proportion of potential taxpayers from the tax net. The Kenya Revenue Authority is therefore unable to track and register these persons.

ii. Limited access to tax payer transactional information.

Kenya currently operates a self-assessment system for income tax purposes. This implies that KRA relies on tax payer's honesty and accuracy in declaring income. However, several taxpayers receiving income outside business or employment income fail to declare this revenue for tax purposes. The KRA's ability to verify the accuracy of returns relies on its access to relevant information.

POLICY ACTIONS

i. Harmonize various laws to facilitate the registration of a single identifier

The KRA currently utilizes the Personal Identification Number(PIN) to identify tax payers. However, not all potential tax payers are registered with the KRA. In addition, there are different identification numbers that monitor activities carried out by citizens and entities. It is therefore necessary to integrate information through a single identifier of all residents. This will promote access to information for effective tracking of transactions and economic activities.

POLICY OUTCOME

i. Holistic view of the tax payer to monitor all economic activities of residents
ii. Increased revenues arising from a broadened tax base and enhanced taxpayer compliance
iii. Enhanced efficiency in tax administration through proper controls and monitoring of taxpayer activities

5.5 ACCOUNTABLE AND TRANSPARENT INCOME TAX SYSTEM

BACKGROUND

Across the world, there is growing demand for greater accountability of the tax policies and utilization of tax revenues. This raises the bar in terms of expectations of the level of tax information provided by the tax authority and the tax payer.

Accountability around taxation is important as it is the central driver of tax compliance. As such, there is need to increase tax compliance to grow tax revenues in order to promote the Government's policy on fiscal consolidation. However, the desire for a more accountable tax system is threatened by systemic weaknesses that generate loopholes easily manipulated for tax evasion.

POLICY OBJECTIVE

To promote accountability and transparency by the tax payer, government and tax administrator

KEY CONCERNS

i. Revenue leakages

In Kenya, revenue leakage is caused by various reasons such as complicated tax systems, discretionary power on exemptions, as well as a dampened morale to pay taxes occasioned by the culture of corruption.

ii. Erroneous determination of tax liability by the tax administrator

The complexity of the income tax regime has often resulted in erroneous assessment for tax liability. This is further compounded by the discretionary powers at the disposal of tax officials.

POLICY ACTIONS

To address these limitations the following actions should be executed:

i. Review the penalty system on tax evasion;
ii. Develop a change management strategy to address income tax matters;
iii. Leverage on simplified technological solutions to enhance integration of taxpayer information systems
iv. Incorporate taxation courses in the school curriculum.

POLICY OUTCOMES

Promotion of tax accountability will result to the following policy outcomes

i. Transparent and accountable tax system
ii. Reduced revenue leakages
iii. Reduced dishonesty through tax planning
iv. Limited discretion in granting exemptions
v. Reduced cost of tax administration

POLICY RISKS

The following risks may hamper realization of this objective:

i. Resource constraints to facilitate implementation of this objective.
ii. Cyber-attacks and crimes present security risks to the information technology infrastructure.
iii. Low uptake of technological platforms among the population

5.6 ENABLING SUSTAINABLE ECONOMIC DEVELOPMENT

BACKGOUND

According to Vision 2030, the country aims to sustain annual GDP growth rates at an average of 10 %. To achieve this, emphasis is placed on increasing earnings and boosting trade activities from tourism, agriculture, information technology and extractives, promoting manufacturing for the regional and global market, encouraging business process offshoring and creating a vibrant and globally competitive financial services sector. In addition, there is need to reduce the tax burden for households in order to encourage savings and promote consumption. To achieve these economic goals, effective revenue administration will be instrumental in enhancing the revenue yield.

POLICY OBJECTIVE

To promote sustainable economic development in Kenya.

KEY CONCERNS

i. The income tax regime as currently formulated, does not support the present economic growth and development agenda.
ii. The income tax framework does not effectively facilitate the mobilization of all resources to drive productivity.
iii. The current income tax regime does not facilitate effective redistribution as a means to address the growing levels of inequality.
iv. Kenya's income tax framework does not encourage environmental responsibility in development

POLICY ACTIONS

i. Periodically align the income tax policy with the county's economic agenda to realize economic development.
ii. Design a progressive income tax regime that facilitates wealth redistribution.
iii. Progressively shift from reliance on income and direct tax to consumption and indirect tax.
iv. Design an income tax regime that encourages environmental sustainability in development.

POLICY OUTCOMES

Implementation of this object will result in the following policy outcomes;

i. Sustained economic growth rates in line with the broader economic policy
ii. Reduced inequality facilitated by redistribution
iii. Reduced poverty levels through equitable employment of factors of production
iv. Sustained environmental responsibility in economic development

POLICY RISKS

The following policy risks may hamper realization of this strategic objective:

i. Kenya's economic development agenda may suffer a setback if there is no political will in implementing proposed policy actions.
ii. Corruption may lead to loss of resources thus derailing the realization of the economic development agenda.

6 CONCLUSION

An optimal direct tax system is one that strikes a balance between equity and efficiency concerns, while yielding optimal utilities to all the participants involved in the economy. In general, the profile of tax payers contributing to direct taxation involves taxpayers with income from labor, income from capital as well as tax payers with both sources of income. All factors need to be appropriately considered to ensure that the design of the Income Tax regime facilitates an enabling environment for business, while promoting economic growth.

The design of Kenya's Income Tax regime should enable a rewrite of the law to simplify the Income Tax statute. This will ease compliance for tax payers and enhance efficiency in revenue administration. The process should further focus on reviewing and developing relevant tax policy, necessary to ensure the income tax regime addresses substantive policy and conceptual issues to ensure equity and eliminate distortion.