

# MANAGING TAX CONTROVERSY

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# Definition



Tax controversy refers to tax disputes that arise between tax collection entities such as the KRA and taxpayers, usually but not always as the result of an audit.

# Controversy Lifecycle



Prevent

Manage

Resolve

# Prevention



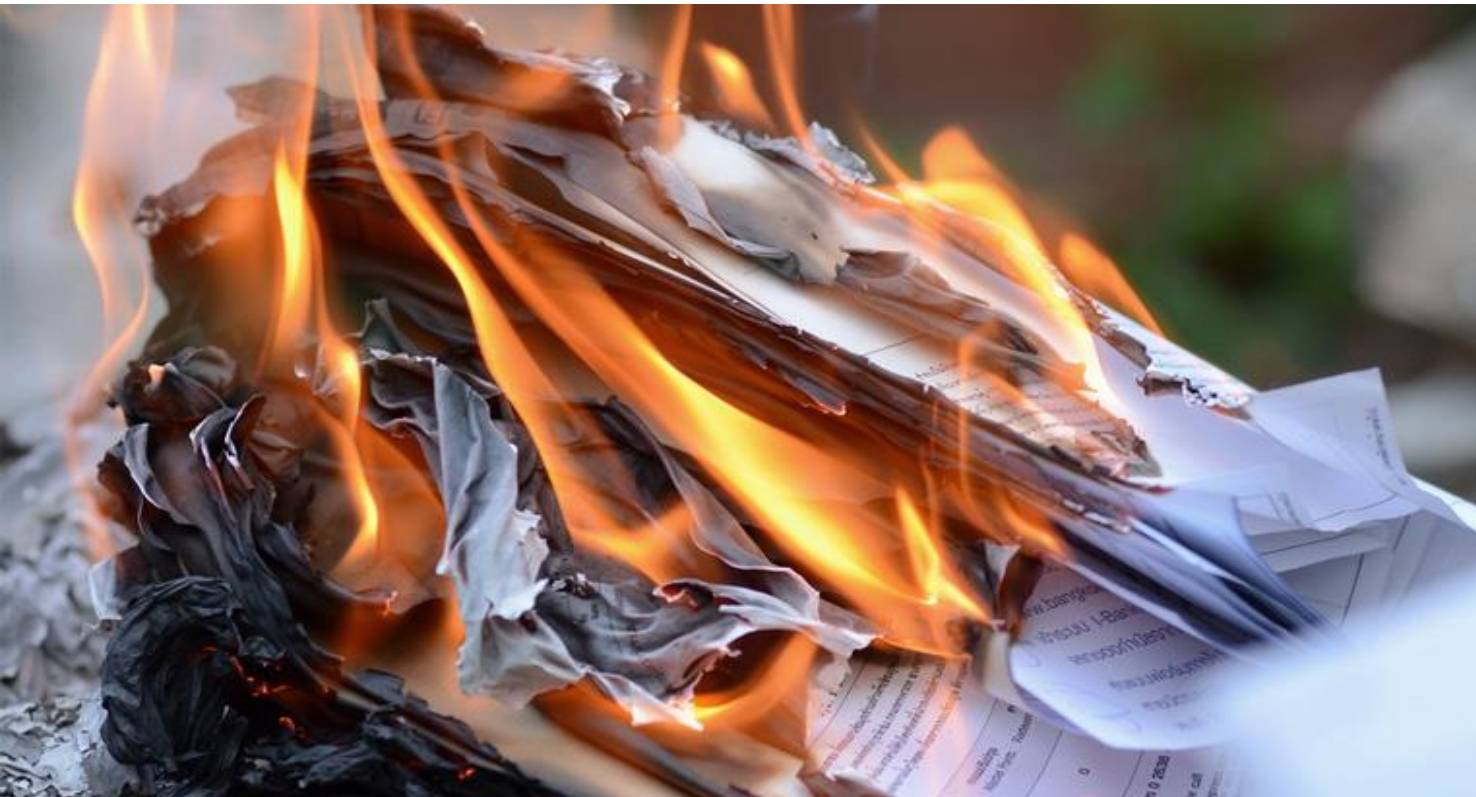
Prevention is better than cure; These measures can be useful

- Proper documentation
- Filing returns on time
- In-depth understanding of the tax laws
- Engaging a tax consultant-Tax health checks
- Proactive negotiation with tax authority

# Managing Controversy



*For a client under tax examination; Here are some golden rules*



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# Managing Controversy Cont'

Question what is being asked for

Be well Prepared for any meetings

Manage deadlines

Make payments on account

Never make partial disclosure

If at fault; never do it again

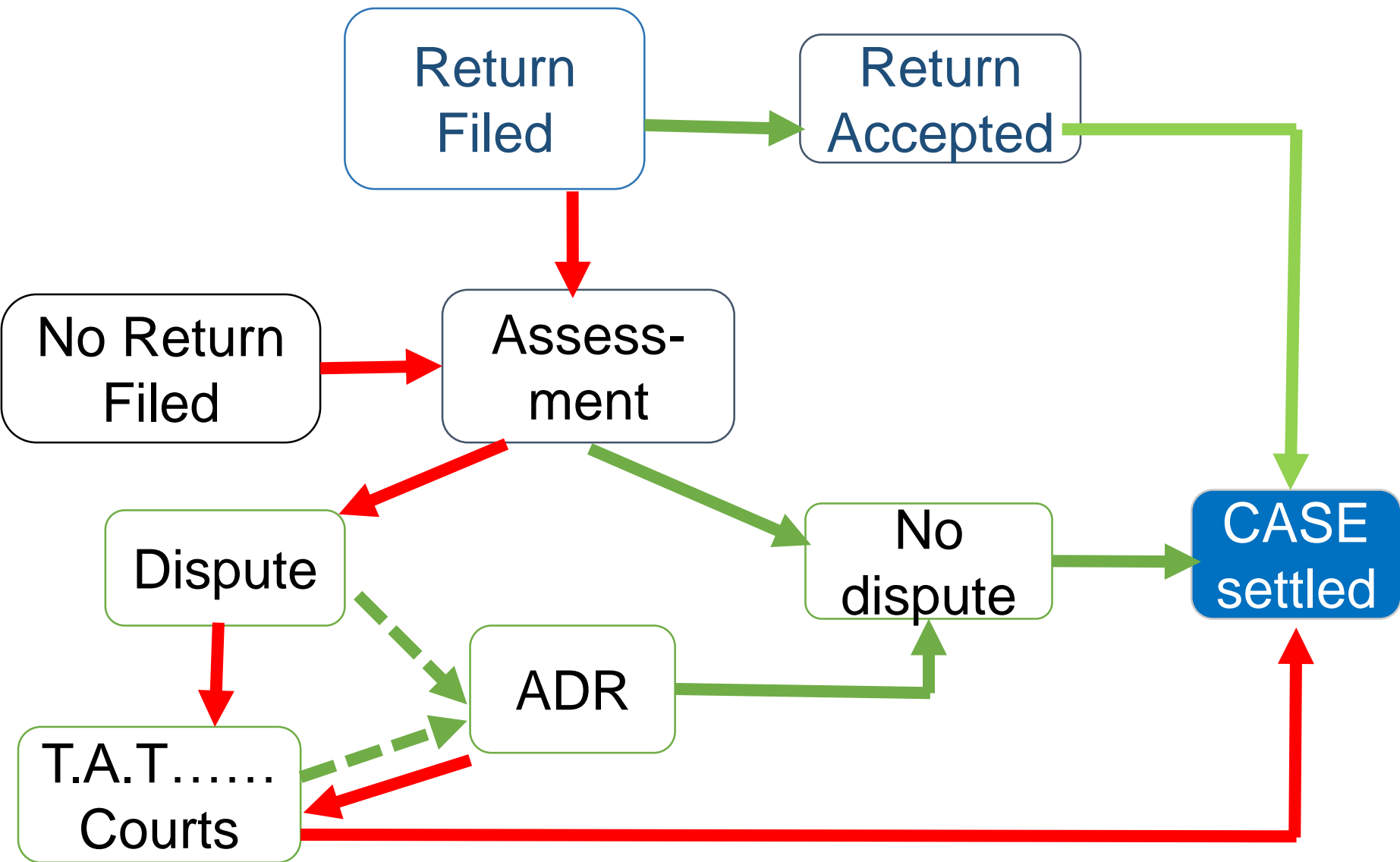
# Resolving dispute



*“Conflict is drama, and how people deal with conflict shows you the kind of people they are.”*

For cases beyond prevention and management, the law allows

- Mediation-ADR
- Litigation - Judicial and quasi Judicial



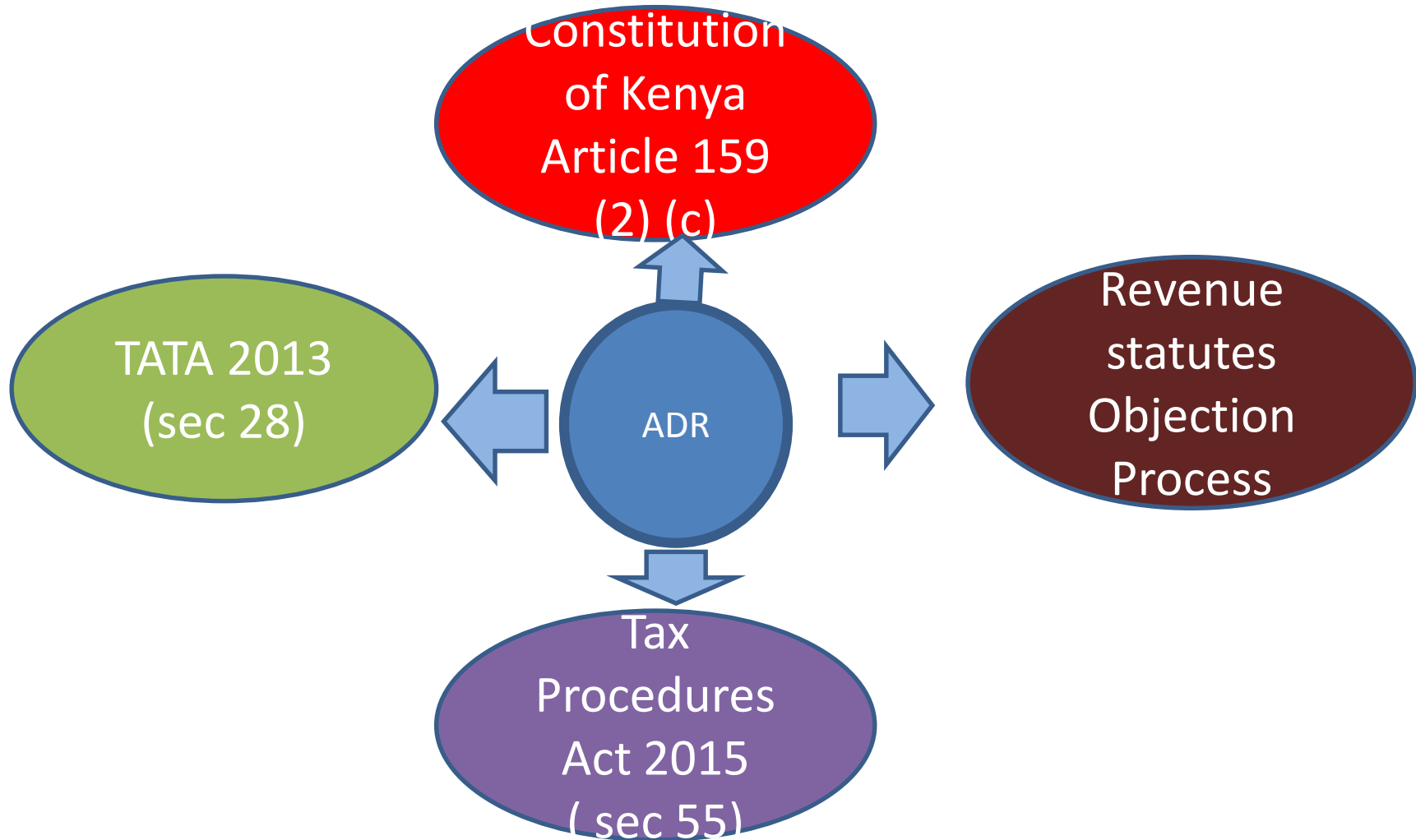


# ADR Mechanism



- *W.e.f 17 July 2015*
- is an additional and/or alternative means of resolving tax disputes outside the judicial and quasi-judicial process
- Its Voluntary, participatory and mediation process as no party imposes a decision

# Legal backing of ADR



# Benefits of ADR



# Benefits of ADR



- Expedite resolution of tax disputes (value for money today)
- cost effective
- Facilitate business relations and enhance trust between KRA and Taxpayers (cordial rlsns)
- Improve service delivery to the Taxpayers, Tax Consultants and Legal Advisors;

# Benefits Cont'



- Improve tax compliance through identification of issues that concern both parties
- fosters Confidentiality

# Notable Gains



- 6.6 Billions of tax revenue recovered, out of over 35Billion locked in disputes
- Over 140 disputes resolved
- Reduced compliance costs esp' to SMEs

# Role of Professionals



- Assist in dispute resolution by recognizing ADR integral part of the tax dispute resolution mechanisms
- Assist the taxpayer in assessing whether the dispute in question is suitable for ADR and best way to deal with it under the ADR process,
- Assist the taxpayer in initiating the ADR process and formulation of the necessary documentation,

# Role of Professionals cont'



- Submit their client's case during the ADR discussions,
- Assist the parties identify the contentious and non-contentious issues in a dispute.
- Assist the parties in the ADR discussions narrow down issues with a view to reach an expedited conclusion.



# Admissible Cases



- disputes on which tax assessment has not been confirmed,
- disputes on which tax assessment has been confirmed but the parties mutually agree to a self review,
- disputes before the Courts but where the parties desire an out-of-court settlement.

# Inappropriate disputes



*“He who comes  
into equity must  
come with clean  
hands”*



# Inappropriate disputes



- Disputes relating to or tainted with tax evasion or fraud,
- Where the settlement would be contrary to the Constitution, the Revenue Laws or any other enabling Laws.
- Where it is in the public interest to have judicial clarification of the issue and the case is suitable for this purpose

# Inappropriate disputes



- The pursuit of the matter through the Courts will significantly promote compliance and the case is suitable for this purpose,
- The Taxpayer has not complied with the provisions of any Act administered by KRA and there is evidence that the non-compliance is non-consistent or deliberate.

# Interactive Session

