



Tax implications of the Fiscal Budget FY 2018-19

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Tuesday, 19th June 2018

Contents



- 
- Budget overview

- 
- Direct tax measures

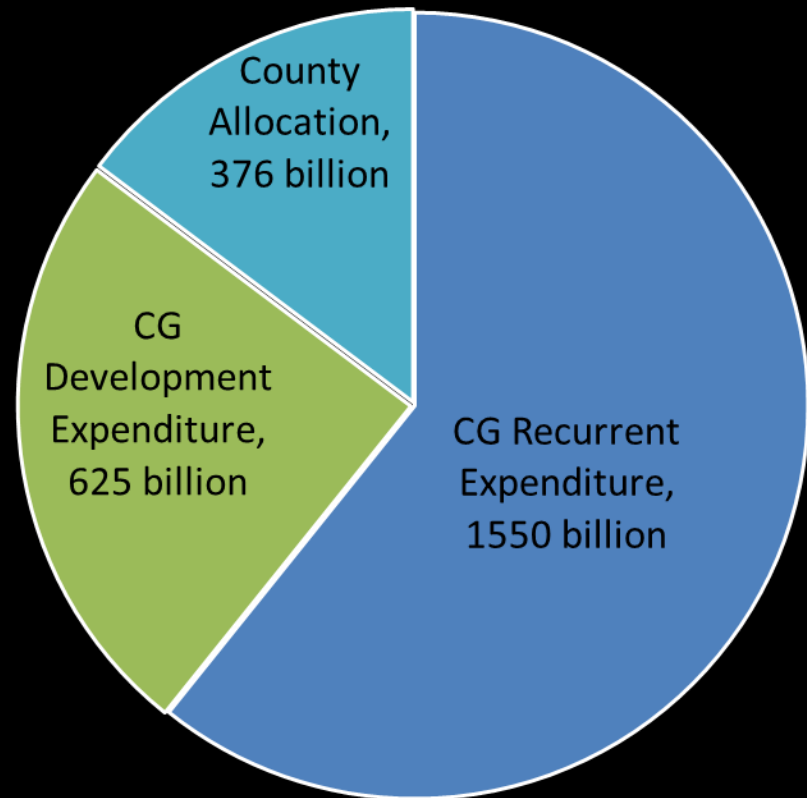
- 
- Indirect tax measures

- 
- Q&A

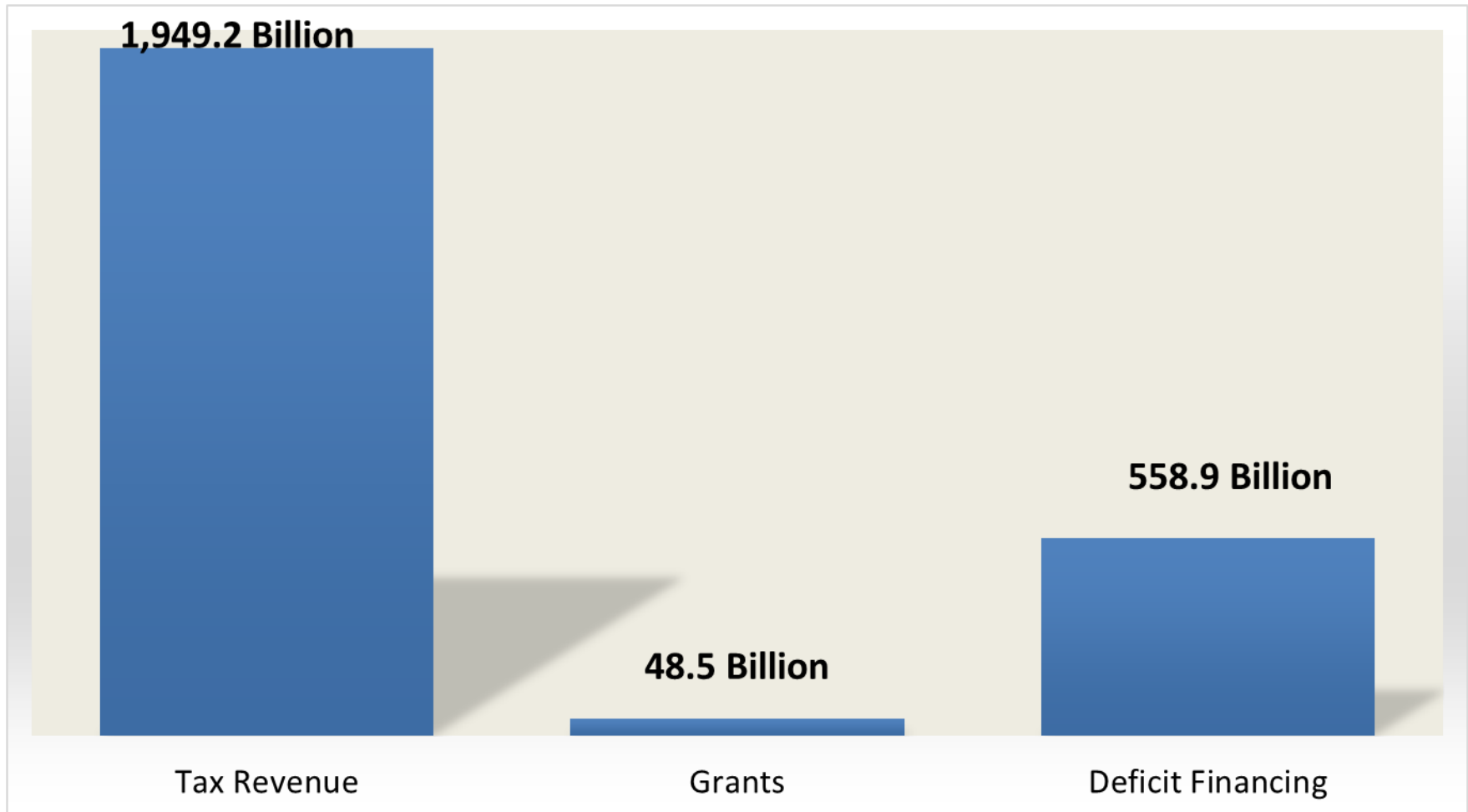
Government Revenue Allocation – KES 2.551 Trillion

Debt Servicing

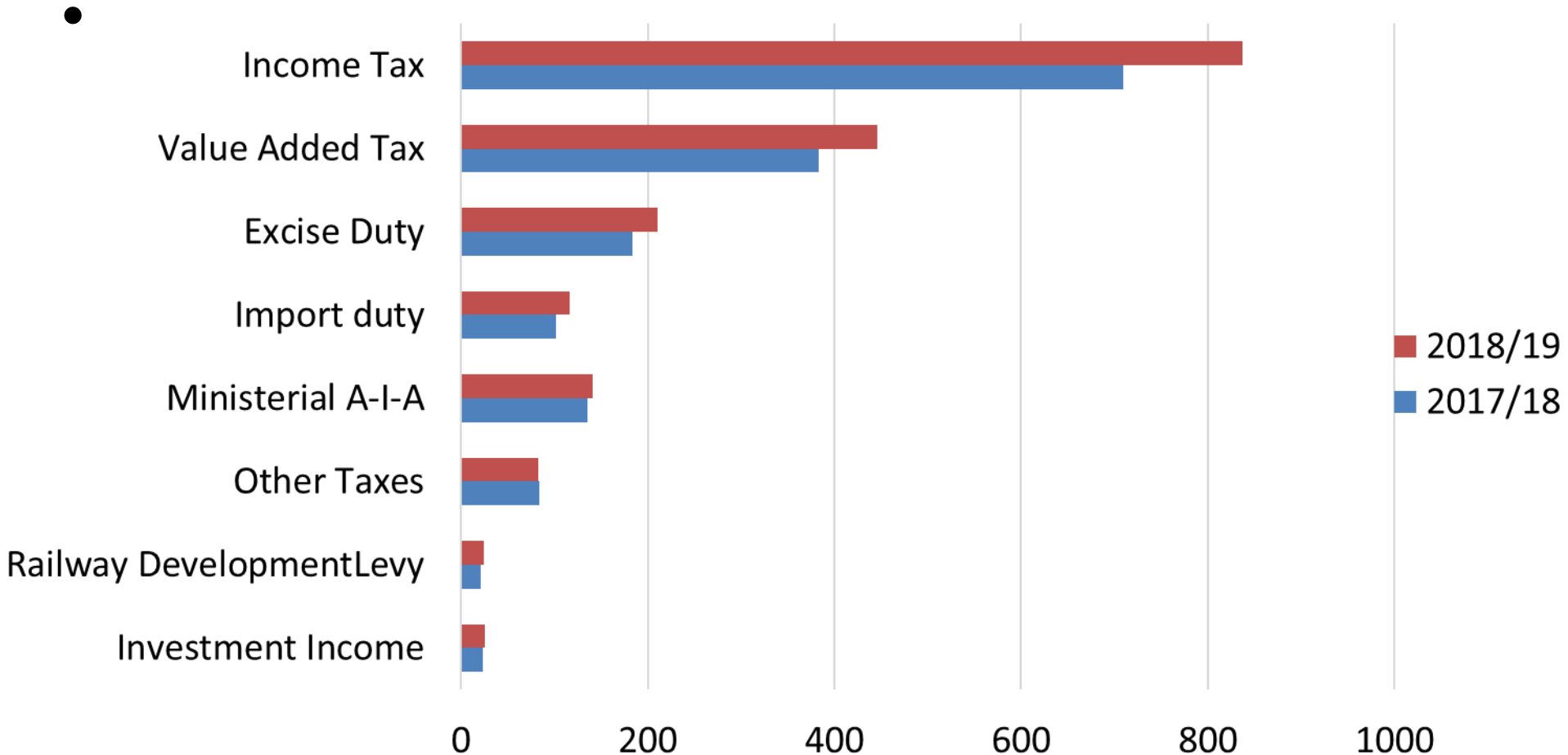
- Debt servicing to take up KES 686 B of the recurrent expenditure.
- Of the KES 686 B, 316 B is interest and KES 370B is principal



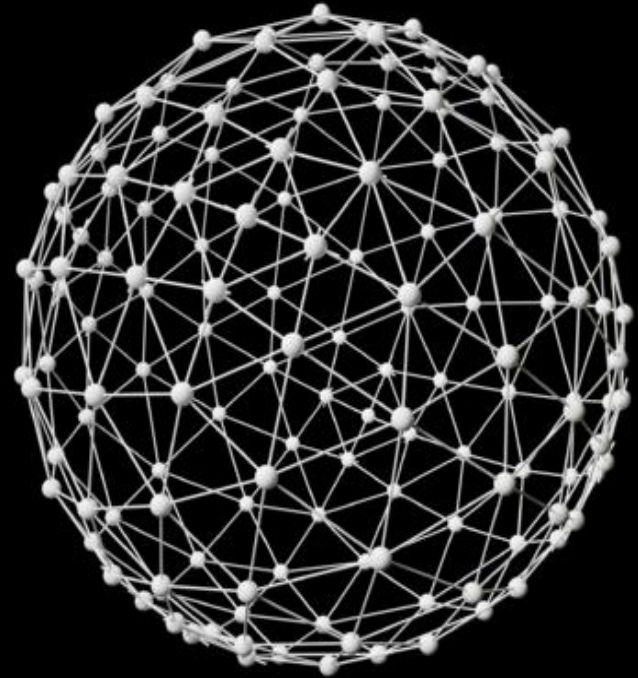
Kenya Budget Financing – KES 2.556 Trillion



Budget Sources of Revenue



Direct Tax Measures



Corporate Income Tax



- Manufacturers to be eligible to claim an additional 30% of their electricity bills subject to conditions set by the Ministry of Energy.
- Clarification that transfer of property by general insurance companies to be taxed as capital gains.
- Deemed dividends to include distribution of any cash or assets to a shareholder or person related to the shareholder, discharge of any obligation or settlement of debt on behalf of a shareholder or use of any amount for the benefit of the shareholder or related person.
- Replacing the compensating tax provisions with corporate tax on dividends paid out of untaxed profits.

Withholding Tax



- Withholding tax of 20% introduced on demurrage charges paid to non-residents.
- 5% withholding tax introduced on insurance premiums paid to non-residents excluding insurance premiums paid for insurance of aircrafts



Presumptive Income Tax



- Presumptive tax of 15% of the business permit or license fee introduced for businesses whose turnover is below KES 5 Million per annum.
- Does not apply to corporate entities; rental income or income from management and professional services.



PAYE



- The proposal to introduce a 35% tax rate on individuals earning more than KES 750,000 per month under the draft Income Tax Bill 2018 has been dropped. The current top rate of 30% will be maintained.
- Amendment of the Employment Act to introduce a 1.0% contribution on employee's gross monthly salary and a matching contribution by the employers to go into the National Housing Development Fund.



Tax Amnesty



- The period of tax amnesty on foreign incomes has been extended from 30 June 2018 to 30 June 2019.
- Under the tax amnesty, only income accrued up to 31 December 2017 is eligible. The returns and accounts for the year 2017 have to be filed before the deadline and the income declared must be transferred back to Kenya.
- Funds declared under the amnesty will be exempt from provisions of the Proceeds of Crime and Anti-Money Laundering Act or any other act relating to reporting and investigation of financial transactions. The exemption will not apply to proceeds of terrorism, poaching and drug trafficking.

Tax Dispute Resolution



- Tribunal proceedings shall not be adjourned where a panel member is not available or ceases to be a member.
- Settlement of tax disputes outside the Tribunal is now set to be embedded in law. The time to be taken in such an arrangement shall be excluded from the 90 day period allowed for a Tribunal to issue a ruling.



Tax Procedures Act

- Late payment interest increased from 1% to 2%.
- Late payment penalty of 20% re-introduced.
- Late filing penalty for individuals reduced to 5% of tax due or KES 2,000 whichever is higher.
- Applications for extension of due dates for tax returns filing to be made at least 15 days before due date for monthly returns and 30 days for annual returns and Commissioner to respond at least 5 days before due date.

Tax Procedures Act



Late filing penalty for income tax returns:

- For corporate bodies, the penalty will be 5% of tax payable or KES 20,000, whichever is higher, whereas for individuals, the penalty will be 5% of tax payable or KES 2,000, whichever is higher.
- Limited grounds for waiver of penalty or interest, i.e. hardship or equity, impossibility or undue difficulty or expense of recovery.

Tax Procedures Act

- Objection to an assessment to remain valid where a person applies for extension to pay tax not in dispute.
- Obligations of tax representatives restricted to the specific taxes for which they are appointed.
- New provisions and penalties introduced in relation to unauthorized access or improper use of computerized tax systems.



Betting and Gaming Taxes

- 20% penalty and 2% interest introduced on late payment of Betting, Lotteries, Gaming and Prize Competitions tax.



Stamp Duty



- The Stamp Duty Act to be amended to include exemption from stamp duty on instruments executed for purposes of collection and recovery of tax.
- The Stamp Duty Act to be amended to exempt stamp duty from instruments relating to activities of Special Economic Zones.



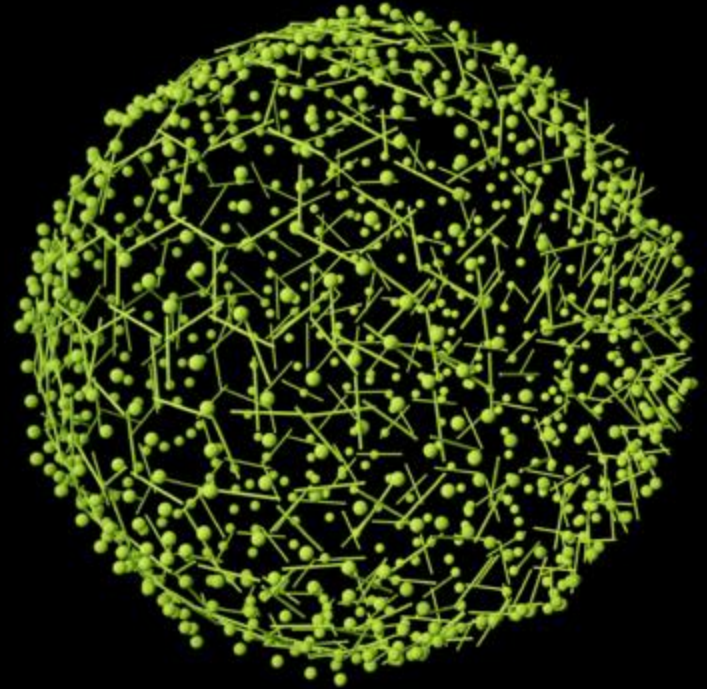
Other Key Changes



- The Banking Act to be amended by repealing Section 33B thus lifting the capping of interest rates.
- A Robin Hood Tax at the rate of 0.05% to be introduced on any amounts of KES 500,000 or more transferred through banks and other financial institutions.
- Proposed increase of the capital gains tax rate from 5% to 20% in the Income Tax Bill, 2018 to be dropped.



Indirect Tax Measures



Value Added Tax



VAT exemption introduced on the following items

- Equipment for the construction of grain storage facilities.
- Additional raw materials for the manufacture of animal feeds.
- Parts imported or purchased locally for the assembly of computers.



Value Added Tax



- Taxable value of mobile cellular to be determined in accordance with the VAT Act.
- Late filing penalty to be moved from the VAT Act to the Tax Procedures Act but penalty remains the same.
- Wheat and barley seed which are currently VAT-able to be exempt.
- Maize (corn) seed to be subject to VAT.
- Garments and leather footwear manufactured in an EPZ to be VAT-able upon importation.
- Transportation of cargo to destinations outside Kenya to be deleted from exempt schedule.
- Alcoholic and non-alcoholic beverages supplied to DEFCO to be exempt.
- Exemption of goods and services for direct and exclusive use in projects under special operating framework with the Government.
- Exemption of postal services (postage, rental of post boxes and mail bags).

Customs Duty



Stay of application of the CET

- Grant of stay of application on the following products:
 - Assorted range of metal and metal products at varying increased rates.
 - Non electric cooking appliances at 35%.
 - Leather and footwear at 35% or USD 10 per pair.
 - Refined edible oil products at 35% or USD 500/MT.
 - New textiles and apparels at 35% or USD5/Kg.
 - Particle boards, Medium Density Fibre board (MDFs), plywood & block boards at various rates.
 - Aluminium Roll on Pilfer Proof (Bottle Tops) at 35% or USD 0.01 per piece.
 - Assorted paper and paperboard products at 35%.

Customs Duty



Stay of application of the CET

- Extension of stay of application of the CET rate on rice, products of iron or non alloy steel of heading 7209, LPG, leaf springs, worn clothing, road tractors for semi-trailers, safety matches, and styrene acrylic.



Miscellaneous Fees & Levies



- Introduction of export levy on copper waste and scrap at 20%.
- Exemption of goods imported for implementation of projects under special operating framework arrangement with the Government from RDL and IDF.



Excise Duty



- Increase of excise duty on:
 - private passenger motor vehicles (diesel powered of above 2500cc and petrol powered of above 300cc) from 20% to 30%.
 - fees charged for money transfer services by cellular phone service providers from 10% to 12%.
 - kerosene from Kshs. 7,205 per 1000 litres to Kshs. 10,305 per 1,000 litres.
- Introduction of a Robin Hood Tax of 0.05% on any amounts of KShs 500,000 or more transferred by banks, money transfer agencies and other financial service providers.
- Introduction of excise duty on sugar confectionery and chocolate at Kshs. 20 per Kg
- Inflationary adjustment of specific rates to be effected annually.

Excise Duty



- 16% of excise duty collected on money transfer services by cellular phone service providers to be paid into the Sports, Art and Social Development Fund.
- Clarification of excise duty on bottled or similarly packaged water.
- Exemption of:
 - Alcoholic and non-alcoholic beverages supplied to DEFCO.
 - Goods procured for direct and exclusive use in the implementation of projects under the special operating framework arrangements with the Government.

Customs Duty

Customs Duty - All EAC Countries



- Exemption from import duty on the following:
 - Motor cycles and bicycles for racing.
 - Motor cars, sightseeing buses and overland trucks.
- Amendments to the EAC CET
 - Comprehensive review of the EAC CET.
 - Decrease of import duty on Polyvinyl alcohol from 10% to 0%.
 - Tariff split of HS Code 8903.99.00 to incorporate motor boat ambulances at 0%.

Customs Duty – All EAC Countries



The following items to be included in the EAC duty remission scheme:

- Motor CKD cycle kits.
- Industrial sugar.
- Inputs for manufacture of pesticides, fungicides & acaricides.
- Inputs/raw materials for manufacture of energy saving stoves.
- Gum base.
- Inputs for manufacture of toothbrushes.
- Inputs for manufacture of roofing tiles coated with acrylic paint.
- Aerosol cans.

Customs Duty – All EAC Countries



Stay of application of CET Rates

- Grant of stay of application of CET rate on flat-rolled products of iron or non-alloy steel at 10% or 250 per MT instead of 10%.



Q & A



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