



# Overview of Kenya's tax journey and future outlook

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# Presentation Outline



- ❑ Pre-independence Tax
- ❑ East African Income Tax (Management) Act
- ❑ Income Tax Act
- ❑ Tax Modernization Program
- ❑ Kenya Revenue Authority
- ❑ Revenue Admin Reform & Modernization
- ❑ The future outlook
- ❑ Q&A

# Pre-independence Tax



- ❑ Hut and Poll tax - Introduced in 1901
- ❑ Hut tax as levied by the British system on each existing hut in a homestead, payable in kind or labour by each native.
- ❑ Poll tax was universal tax levied on each individual at varying rates to meet the administrative costs of the British System

# Pre-independence Tax Cont'd



- ❑ Land tax – Tax was charged on individuals holding a substantive area of land.
- ❑ Land tax would be increased four times for individuals holding more than 50,000 acres.
- ❑ This tax only lasted between 1908 and 1915

# Pre-independence Tax Cont'd



- ❑ **Graduated Personal Tax** - Introduced in 1933 and was assessed on every non-native male and female resident in Kenya
- ❑ **Customs Tax** - Introduced in 1933 for goods traded across Kenya, Uganda and Tanganyika at varying rates

# East African Income Tax (Management) Act



- ❑ The East African Income Tax (Management) Act was introduced in 1953 and operated up to 1974
- ❑ EAITMA had similarities with the British tax regime
- ❑ Aimed at standardizing and administering tax across the East African Countries

# East African Income Tax (Management) Act Cont'd



- ❑ Sales tax introduced in 1972 - tax levied on each sale made by traders and paid to the government
- ❑ Trade taxes introduced to protect domestic manufacturing sector from importation
- ❑ Led to the increased import duties and decreased cost of domestic manufacturing inputs

# East African Income Tax (Management) Act Cont'd



- ❑ Income Taxes were introduced during this period
- ❑ This restructured personal income taxes with the aim of addressing tax inequalities



# The Income Tax Act, 1974



- ❑ The Income Tax Act came into force in 1974, to replace the East African Income Tax (Management) Act
- ❑ Amendments to suit the changing business and tax environment

# The Income Tax Act, 1974

## Cont'd...



Thin capitalisation...

- ❑ Thin capitalisation exists where a foreign controlled company's debt to equity ratio exceeds 3:1
- ❑ It was introduced in the late 1970s to encourage foreign investors to inject "real" capital into the country as opposed to interest earning loans

# The Income Tax Act, Cont'd...



## Capital Gains Tax...

- ❑ This is tax charged on the net gains made from property by the transferor
- ❑ It was introduced in 1975, then suspended in 1985 and later re-introduced in 2015
- ❑ The applicable rate is 5% in Kenya, as compared to 30% for Uganda and Tanzania

# The Income Tax Act, Cont'd...



Transfer pricing (TP) rules...

- ❑ Introduced in 2006 and require a tax payer with related non-resident transactions to document a TP policy to prove compliance with the arms length principle

# The Income Tax Act, Cont'd...



Transfer pricing (TP) rules...

- ❑ Income Tax Bill, 2018, has proposed new and extensive changes to the traditional TP Rules
- ❑ When implemented, there will be more disclosures required in relation to TP

# Tax Modernization Program



Introduced in the year 1980

Under this program:

- Excise taxes were converted from specific to ad valorem regime
- Valued Added Tax (VAT) was introduced in 1990 to replace sales tax

# Tax Modernization Program cont'd



- ❑ Custom duties were revised towards export-led industrialization
- ❑ Zero-rating for agricultural inputs was introduced
- ❑ Import tariffs on raw materials for manufacturing were decreased

# Tax Modernization Program Cont'd...



- ❑ Introduction of corporate income taxes. This was accompanied by differentiating the rates for local and foreign companies as well as introducing tax incentives to attract investors
- ❑ Reduced brackets for personal income taxes
- ❑ Differential rates for interest and dividend incomes



# The Kenya Revenue Authority



- ❑ The Kenya Revenue Authority was established by an Act of Parliament in 1995
- ❑ Tax was previously administered by a department within National Treasury
- ❑ The purpose was to maximize revenue collection and increase efficiency in tax administration

# The Kenya Revenue Authority Cont'd



- ❑ It centralized tax collection and replaced the function previously played by the Ministry of Finance
- ❑ It introduced several departments such as domestic tax department, large taxpayers, customs department with an aim of specialization and revenue maximization

# Revenue Administration Reform and Modernization Program (RARMP)



- ❑ Under the RARMP, the KRA introduced the initiative of hiring specialized staff to help implement its mandate
- ❑ The second phase of the RARMP has seen the successful implementation of the *iTax* system
- ❑ With the *iTax* system, taxpayers are able to file their returns and make payments without visiting the KRA offices

# Revenue Administration Reform and Modernization Program (RARMP)



- ❑ The RARMP boosted the customs revenue collection and administration by introducing the Customs & Border Control Services
- ❑ It introduced the Simba System in 2005 to replace the manual system - increased efficiency by enabling online clearing process

# The Future Outlook



# New Income Tax Act?



- ❑ There has been clamour to overhaul the current Income Tax Act to simplify the tax law as well as expand the tax base
- ❑ The pressure to expand the tax base has been fuelled by the government's ambitious development agenda, and the pressure to service a huge public debt

# Income Tax Bill proposals



Some Tax Base Expansion proposals...

- ❑ The proposal to reduce thin cap ratio from 3:1 to 2:1
- ❑ The bill expands the definition of a Permanent Establishment to include warehousing, farming, sales outlets, and provision of consultancy services for a period exceeding 91 days

# Income Tax Bill proposals (Tax Base Expansion) cont'd



- ❑ Clubs and associations will be taxed on gross receipts including entrance fees and members' subscriptions, as opposed to the current position where income is exempt if it comprises 75% member contributions



# Income Tax Bill proposals (Tax Base Expansion) cont'd



- ❑ The bill proposes that cooperative societies be taxed on the entire interest income from sources other than from member loans. Previously, only 50% of such interest income would be taxed

# Q&A

