

Budget Review & Emerging Tax Issues Workshop: Nyanza/Western Branches

Division of Revenues between National and County Governments

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Presentation Outline



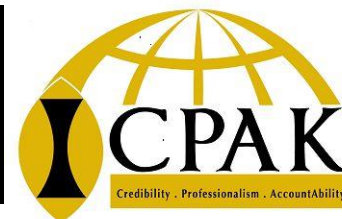
- ❑ Constitutional Requirements
- ❑ Revenue flows –National to County
- ❑ Devolved revenues since 2013
- ❑ Some achievements and challenges
- ❑ Way forward

Constitutional provisions on Revenue Sharing



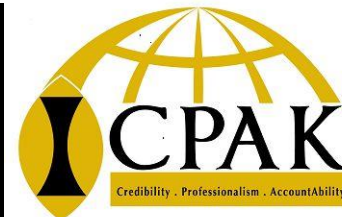
- ❑ Revenue raised nationally shall be shared equitably among the national and county governments (Article 202 (1))
- ❑ County governments may be given additional allocations from the national government's share of the revenue, either conditionally or unconditionally (Article 202(2))
- ❑ Criteria in determining Revenue Sharing (Article 203 (1))
 - the national interest;
 - any provision that must be made in respect of the public debt and other national obligations;
 - the needs of the national government, determined by objective criteria;
 - the need to ensure that county governments are able to perform the functions allocated to them

Criteria Cont...



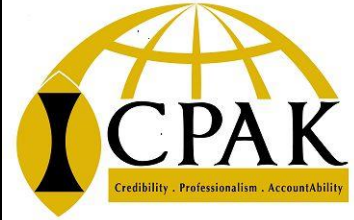
- the fiscal capacity and efficiency of county governments;
- developmental and other needs of counties;
- economic disparities within and among counties and the need to remedy them;
- the need for affirmative action in respect of disadvantaged areas and groups;
- the need for economic optimisation of each county and to provide incentives for each county to optimise its capacity to raise revenue;
- the desirability of stable and predictable allocations of revenue; and
- the need for flexibility in responding to emergencies and other temporary needs, based on similar objective criteria

Designated County Revenues



- Each year, not less than 15% of revenues raised nationally (Article 203 (2))
- Revenues referred to above shall be calculated based on the most recent audited accounts of revenue received, as approved by the National Assembly (Article 203(3))
- Equalization Fund –at least 0.5% of revenues collected by National Government (Article 204(1))
- Equalization Fund shall be used in provision of basic services including water, roads, health facilities and electricity to marginalised areas (Article 204(2))
- National Government may use equalization fund: (Art. 204 (3))
 - ✓ If expenditure is approved by Parliament through an appropriation bill
 - ✓ Either directly or indirectly through conditional grants to marginalised communities

Consultation on Revenues of Counties



- On Bills concerning sharing of Revenues, CRA shall consider the provisions and may make recommendations to the National Assembly and the Senate (Article 205(1))
- Any recommendations made by the commission shall be tabled in Parliament and each House shall consider the recommendations before voting on the Bill (205(2))

Division on Revenue



- Once every 5 years, the Senate shall by resolution determine the basis of allocating among counties the National revenue allocated to counties annually (Art. 217(1))
- In exercising this powers the Senate shall (Art. 217(2)):
 - ✓ Take into account criteria set in Art. 203(1)
 - ✓ Request and consider recommendations by CRA
 - ✓ Consult the County Governors, CS for Finance and any other county organization
 - ✓ Invite the publics, including professional bodies to make submissions
- Within 10 days after the Senate adopts the resolution, the Senate Speaker shall refer it to the Speaker of the National Assembly (Art. 217(3))

- Within 60 days after the Senate resolution is referred to the NA, then NA may consider the resolution and vote to approve it, with or without amendments, or reject it (Art. 217(4))
- If National Assembly (Art. 217(5)):
 - ✓ Does not take a vote in 60 days, the resolution passes without amendments;
 - ✓ A vote to amend or reject the resolution passed by senate MUST be supported by at least 2/3 of the members of the NA
- If NA amends the resolution, the Senate, at its option, may either;
 - ✓ Adopt the new resolution, or
 - ✓ Request the matter be referred to a Joint Committee of the two Houses of Parliament for mediation
- Any resolution passed under clause (5) shall be binding until another resolution has been passed

Annual Division and Allocation of Revenue Bills



- At least 2 month before the end of each financial year, there shall be introduced in Parliament (Article 218(1));
 - ✓ A Division of Revenue Bill –to divide the revenue raised by the National government among the national and county levels of government as per the constitution
 - ✓ A County Allocation of Revenue Bill –to divide among counties the revenues allocated to the county level of government
- Such Bills shall be accompanied by (Art. 218(2)):
 - ✓ an explanation of revenue allocation as proposed by the Bill;
 - ✓ an evaluation of the Bill in relation to the criteria set out in Article 203 (1); and
 - ✓ a summary of any significant deviation from the CRA's recommendations, with an explanation for each such deviation.

Transfer of Equitable Share



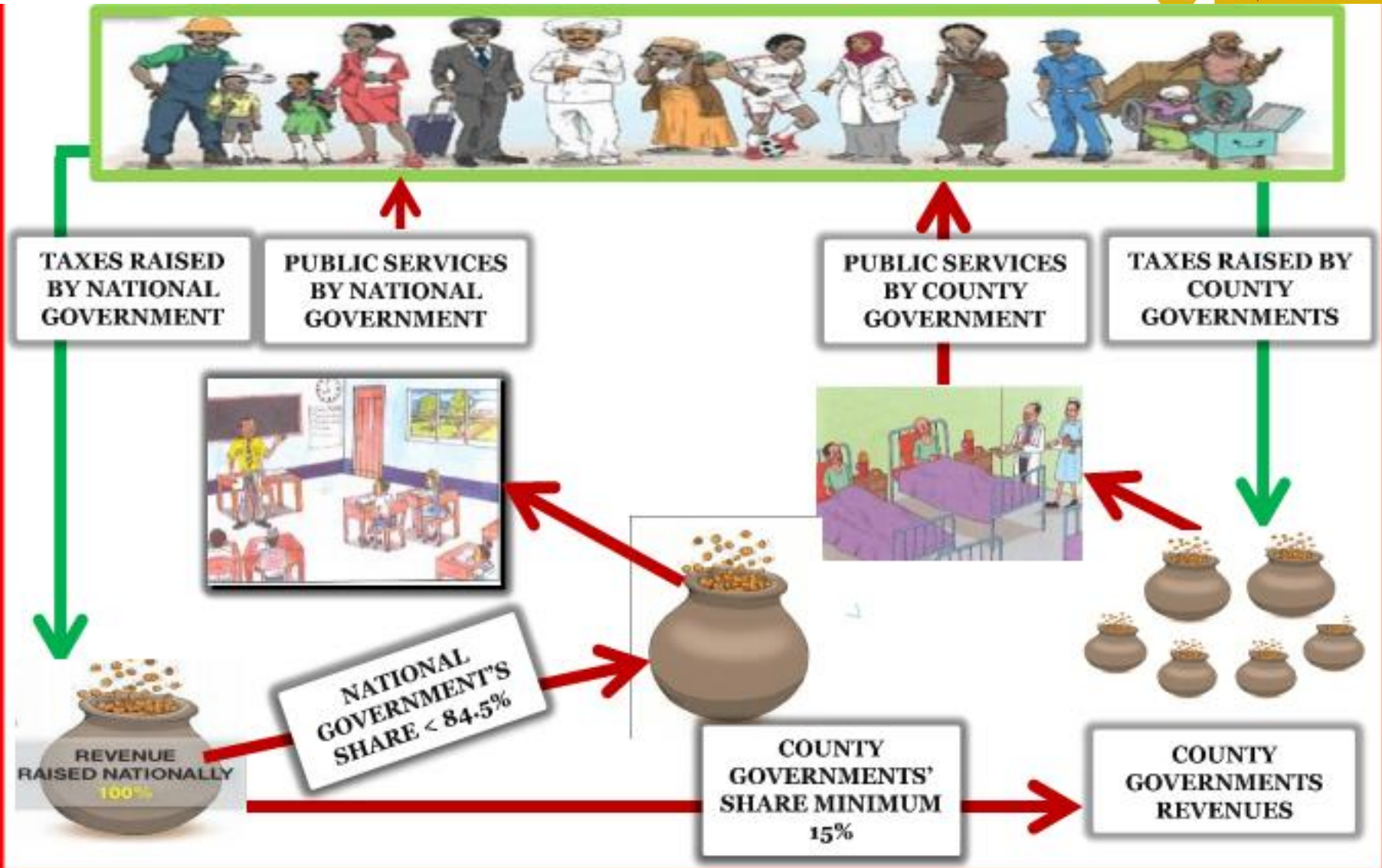
- **A county's share of revenue from national government shall be transferred to the county without undue delay and without deduction, except when the transfer has been stopped under Article 225**
- Instances in which transfer can be with-held;
 - ✓ Based on Recommendation of the CoB;
 - ✓ Material breach of the PFM laws
 - ✓ A vote by Parliament

Current Criteria for Revenue Sharing among counties



<input type="checkbox"/> Population	45%
<input type="checkbox"/> Basic Equal Share	26%
<input type="checkbox"/> Poverty index	18%
<input type="checkbox"/> Land Area	8%
<input type="checkbox"/> Fiscal Responsibility	2%
<input type="checkbox"/> Development index	1%

Actual Revenue Flows





So what's the purpose of the Devolved Funds

Opportunities and Challenges

Constitution: Objects of Devolution



- ❑ Chapter 11 of the constitution: Article 174
 - Promote democracy and accountable exercise of power
 - Foster national unit -embrace diversity
 - Appropriate powers of self-governance and participation of the people
 - Rights of communities to manage their own affairs and development
 - Protect and promote interests and rights of minorities
 - Promote social and economic development
 - Ensure equitable sharing of national & local resources
 - Facilitate decentralization of services from Nairobi
 - Enhance checks and balances –separation of powers

Constitution: Principles of Devolution



- ❑ Chapter 11 of the constitution: Article 175
 - Democracy and separation of powers
 - Reliable sources of revenues
 - Gender parity –no more than 2/3 in representation of same gender

The BIG Question???



**Are we living on or by the promise of
devolution 6 years on? What are your
experiences?**

Some Achievements



The Good



- Despite the teething challenges.....i honestly think devolution still has a fair chance to succeed
- At least the electorate have learned who not to elect in some critical offices – a **CASE IN POINT IS MAKUENI COUNTY!!**
- “.....Even though common sense is not common to everyone.....if meaningful progress has to be made.....COMMON SENSE MUST PREVAIL for devolution to succeed!!! **A good CASE IS EMBU COUNTY!!**

But there have been some challenges!!!



Challenges cont...



- How not to benchmark!!!!
- The ignorance on the doctrine of separation of powers **
- The pitfalls of politics to us as professionals
- Absence of decorum in public office (violation of chapter 6 of the constitution)
- Abuse of power & privileges entrusted on the legislature
- Gross violation of the principle of separation of powers between **the 2 arms of government** at the county level **



County Revenues



**Just how much money has gone to counties
over the past 5 years of devolution?**

Budget Analysis: 2013/14 -2017/18



Budget & Expenditure Analysis -2013/14 -2017/18					
Budgets	2013/14	2014/15	2015/16	2016/17	2017/18
Aggregate budget	261.1	326.29	367.44	399.24	410.1
Recurrent Budget	160.5	181.38	208.2	240.89	271.32
Development Budget	100.4	144.91	158.62	158.36	139.18
Revenues					
Equitable share & conditional grants	193.4	229.264	269.412	299.751	328.85
Local Revenues	26.3	33.85	35.02	32.52	32.49
Balance b/f	4.3	41.67	36.07	37.19	25.75
Total revenues	224	304.784	340.502	369.461	387.09
Expenditure					
Overall absorption	169.4	258	303.47	319.06	303.83
Recurrent Exp.	132.8	167.56	195.72	215.71	236.94
Development Exp.	36.6	90.44	103.45	103.34	66.89
Absorption rates					
Overall absorption	64.90%	79.10%	80.40%	79.90%	78.50%
Recurrent Exp.	82.70%	92.40%	91.90%	89.60%	87.30%
Development Exp.	36.40%	62.40%	65.20%	65.30%	48.10%

Summary of Totals



- ❑ Total revenues = **Ksh. 1625.837 billion** (1.625837 trillion)
- ❑ Total absorption = **1353.76 billion** (1.35376 trillion)
- ❑ Recurrent Absorbed = **948.73 million**
- ❑ Development Absorbed = **400.72 million**

❑ Absorption Rate

- **Recurrent Exp. = 70.08%**
- **Development Exp. = 29.6%**

Issues from the analysis



- ❑ From the budget analysis there are key notable observations
 - Low absorption of development expenditure
 - Insignificant growth on local revenues
 - Huge absorption of recurrent expenditure
 - Mainly recurrent expenditure is on personal emoluments and operations and maintenance*** (not shown since data not complete for all the years)
 - Equitable share from national government often disbursed in full & a large percentage of conditional grants*** (but there could have been delays in disbursements)

Options going into the future



- Counties must re-focus on county economies to grown own source revenues
- Statistics suggest absence of investments in the county economies –otherwise there would be observable growth on own source revenues
- On data not presented –most of the recurrent expenditure is on personal emoluments, local and international travels and operations and maintenance (largely personnel welfare). This not sustainable and ultimately shall undermine growth into the future
- Probably we shall need a radical re-design of county government structures and refocus of investments as opposed to consumption

And Finally.....

